

TRANSCRIPT December 4, 2007

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, Vice-President

Councilmember Phil Andrews
Councilmember Marc Elrich
Councilmember Nancy Floreen

Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal

Councilmember Duchy Trachtenberg

1 ABSENT 2 Councilmember Marilyn Praisner, President



1 Councilmember Knapp,

Good morning everyone. Welcome to the Council this morning. We will begin our session with a moment of silence, if you would all please rise. And as we do, during our moment of silence, November was a difficult month for many of us, I would ask you to keep those in your mind Delegate Jane Lawton and her family, Marie Garber and Sean Taylor. Thank you. And I will now turn to Councilmember Leventhal for a point of personal privilege.

Councilmember Leventhal,

Thank you Mr. Vice-President. I just wanted to very briefly acknowledge the passing last week of Marie Garber who was a great lady of Montgomery County history. She was best known as administrator both of the Montgomery County Board of Elections and of the state of Maryland's Board of Elections where she brought both the County and the state a national reputation for good administration and good government. But she also spent decades working as a leader of the Local League of Women Voters and in the County Democratic Party. Marie was a mentor to this entire generation of County leaders, very much including Ike Leggett, Doug Duncan, Neil Potter and Royce Hanson. She was beloved by many of the Democratic Party leaders and elected officials who served in the 1950's, 60's, 70s, 80's, 90's and in this decade. And she will be greatly missed. She is as I say a great lady of Montgomery County history.

Councilmember Knapp,

Thank you Mr. Leventhal. We now turn to Ms. Floreen.

Councilmember Floreen.

Thank you Mr. Vice-President. Many of us are still reeling from Jane Lawton's death on Thursday. I shared a campaign manager with Jane Lawton five years ago and learned to be a politician along with Jane. Jane was a tremendous example of leadership, of enthusiasm, of energy, and I hope that everyone will spend some considerable amount of time thinking about Jane's many contributions to Montgomery County, both at the community level, at the regulatory level and certainly at the state level. Jane was in the game until the moment she died. A great example for all of us and a reminder, see your doctor and listen to your doctor's advice. Take your medicine and live life to the fullest.

Councilmember Knapp,

Thank you Ms. Floreen. We now turn to a point in our agenda where we would have comments by our out going Council President. As we are all aware, Ms. Praisner has also had a difficult November, but we are joined today by her husband Don and her daughter Alison. And we are going to I guess receive some remarks from Alison on Ms. Praisner's behalf and I think we even have some good news that we're going to have shared with us as well. So, please join us at the table Alison.

Alison Klumpp,

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December 4, 2007

1 I want to thank you all for allowing me to be here in place of my mother. She thanks all 2 of those who have sent wishes for her recovery and wants everyone to know she is 3 doing well and eager to rejoin the Council after the New Year. She has prepared some 4 thoughts about the past year and asked me to share them with you. This has been a 5 momentous year for Montgomery County, a year of significant change and political leadership. When I took over as Council President last December, the County had just 6 7 elected a new County Executive for the first time in 12 years, along with four new 8 Councilmembers. My task as the first President of the new Council was to bring us 9 together, help us develop solid working relationships in our new roles, putting in place 10 new committees and being responsive to the interests of individual Councilmembers. I want to thank my colleagues for their spirit of cooperation and Ike Leggett, my friend 11 12 and former colleague for reinitiating the monthly County Council, County Executive 13 breakfasts and for accepting my suggestion that we reinstitute the County Executive, Council President call-in show. Using a variety of methods we are working hard to reach 14 15 out and engage all members of the community in their government. I know this is a 16 major priority of the County Executive. I also know that Ike Leggett has already made a positive contribution to this County, both as a Councilmember and now as County 17 Executive. He has a tough job deserving the Council's assistance. My top priority this 18 19 year was to lead the new Council in developing a growth policy that would respond to 20 the communities' concerns about congestion on our roads and crowding in our schools. 21 So we adopted a stricter Growth Policy that reintroduces a policy area review and 22 strengthens local traffic congestion tests, tightens school capacity tests and increases 23 impact taxes for schools and transportation. We have also established a framework to assess the quality of life in our County and to strengthen performance measures within 24 25 the Growth Policy. By setting aside funds from the recordation tax increase to fund rental assistant programs for low and moderate-income tenants, we have taken another 26 27 step to respond to high housing costs. We worked for months on the Growth Policy and the final product makes a strong statement about this issue. This year the Council 28 29 adapted a 4.1 billion dollar operating budget that invests in our common priorities of 30 education, transportation, public safety, affordable housing, infrastructure maintenance 31 and vulnerable County residents. Because of our \$613 tax credit for homeowners 32 approximately 80% of homeowners in owner occupied homes are paying less property 33 tax this year. Affordable housing got a big boost as the Council committed 29.7 million 34 dollars to the housing initiative fund allowing the County to take advantage of 35 opportunities to both preserve and purchase affordable housing units for our residents. We targeted 2.2 million dollars for special needs housing and added two housing code 36 37 enforcement inspectors in response to a growing concern with our older neighborhoods. 38 I am also pleased that at my request the County Executive has established an 39 Executive staff working group to tackle better coordination and improve code 40 enforcement. We also passed legislation that will help our future needs in other ways. 41 We made the recordation tax more progressive by conforming the threshold standards to the average size and price of resale housing in the County. We continue to make 42 43 improvements to the County Council grants process. We convened a group of experts 44 to provide the Council advice on ways to increase infrastructure financing. We have also



1 increased after-school programming across the County at high school and middle 2 school levels. These are programs that the Council initiated or saved with additional 3 funding. We have strengthened our working relationship with the Board of Education, 4 holding an unprecedented two joint meetings this year. We have asked the Planning 5 Board to make more meaningful progress on modifying the master plan process to shorten the time period for planning. We have asked for design standards and improved 6 7 forest conservation. We began the process of implementing the recommendations of 8 our Agriculture Working Group to protect our agriculture reserve and strengthen 9 agriculture in this County. People who eat in our restaurants will have the option of 10 eating healthier as the result of legislation that will ban trans fat. We have also passed a bill that will protect the civil rights of trans gender individuals. I have characterized this 11 12 Council as serious and focused on major issues. This Council over the past year made 13 known its intent to strengthen our program accountability efforts and base budget reviews. We have also signaled our strong commitment to the environment including 14 15 water and air quality and have joined with the National Association of Counties and 16 major Counties across the country to seize the initiative on this important issue. I want 17 to thank my incredible personnel staff, Joy, Sherry, Claire, Pat, and Jackie. You are a fantastic team that has taken my commitment to strong constituent service to heart. I 18 19 love you all and we're a great team. Thanks to the fifth floor staff especially Steve 20 Farber and Linda Lauer for your unswerving dedication to the institution that is the 21 Montgomery County Council. Thanks to my colleagues old and new, Phil, Roger, Marc, 22 Valerie, Mike, Nancy, George and Duchy for all your cooperation, collegiality and friendship this year. That concludes my mother's statements, but she has further asked 23 me to send her best wishes to all during the holiday season. As our family has learned 24 25 in recent weeks, it is important to treasure every moment and every opportunity. The Praisner family certainly will do that. I am also pleased to announce that later on this 26 27 morning my mother will be going home and I'd like to thank you all once again.

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Councilmember Knapp,

Wonderful. Thank you. [applause]. Thank you Allison for your wonderful remarks, you did a great job. Thank you for the good news. I'm sure she's pleased. Right, Marilyn? [laughter]. We know it' been a difficult month and we appreciate your perseverance and your willingness to share and share her and share information and keep that open line of communication both you and your dad. Appreciate it, thank you very much. Also, we really look forward to seeing her back soon. I think the Council Executive said it best yesterday, that there is no harder working, dedicated, committed, or more knowledgeable person working in our County right now and so we look forward to her taking her time, getting well rested, getting well and coming back. And typically at this point in time, we would be bestowing upon her the honorary gavel to mark her presidency, but we're going to keep it here as ransom until she gets back. Thank you. We have a couple of comments. Ms. Floreen.

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Councilmember Floreen,



Well, I wanted to comment that it was clear that this was a Praisner speaking to us because she did not need to be reminded to press her button. [laughter]. It came instinctively. But we do, tell your mom, well I'm sure she's watching, you did a great job and we look forward to having your mom back. I hope you're making her listen to her

5 doctor's advice as well.

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- 7 Councilmember Knapp,
- 8 Mr. Andrews.

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- 10 Councilmember Andrews,
- 11 Thank you very much. Great job Alison and one can't be certain about all things or
- many things but I am certain that Marilyn Praisner is watching this right now. And what
- 13 you described is very much through Marilyn what the Council has accomplished this
- 14 year. Led very ably by Marilyn. I think there's probably never been a harder working
- member of the County Council than Marilyn Praisner and more dedicated public
- servant. And we very much look forward to having her back after her rest and
- 17 recuperation at home over the holidays. So we'll see you soon, Marilyn.

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- Councilmember Knapp,
- 20 Thank you. Ms. Trachtenberg.

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- 22 Councilmember Trachtenberg,
- Just some brief remarks. Again, I want to thank both Alison and Don were being here
- this morning and I'm thrilled to learn that our out going Council President is going to be going home today and I think that Ike's remarks yesterday about Marilyn were right on
- point and she does bring great knowledge to this office and has obviously for a long
- period of time and I know that was missed the last few weeks so I'm really looking
- forward to having Marilyn back in the saddle in January.

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- 30 Councilmember Knapp,
- 31 Great. Thank you very, very much. Appreciate you coming. Travel safely. [laughter].
- Okay, our next order of business this morning is election of officers for the upcoming
- year. We now turn to any nominations for Council President. Mr. Elrich.

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- 35 Councilmember Elrich.
- I would like to put your name in nomination for Council President for the coming year.
- 37 So, I'd like to formally introduce the idea of Mike Knapp being Council President for this
- 38 next session.

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- 40 Councilmember Knapp,
- 41 Any other nominations? Ms. Floreen.

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43 Councilmember Floreen,



1 I just wanted to second Mr. Elrich's nomination. I think you will bring an important approach to leading the Council through this next year of fiscal care and of great 2 3 collaborative spirit. And I think that's exactly the theme of the next year especially giving 4 the budget issues we know we're going to be delving into in tremendous detail and with 5 great public interest. And I think this is the year for you to be in charge of that exploration and effort working with all of us. I think we will be able to rise to a new level 6 7 of collaborative experience and I think working with the County Executive as well, will, 8 this will bode well for the County at large and for our ability to get things done.

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10 Councilmember Knapp, 11 Thank you very much.

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- 13 Councilmember Elrich,
- 14 Could I add to it?

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- 16 Councilmember Knapp,
- 17 Certainly.

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- 19 Councilmember Elrich.
- I was trying to follow the protocol. [INAUDIBLE] [laughter]. 20

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- 22 Councilmember Knapp,
- 23 That was fine.

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- 25 Councilmember Trachtenberg.
- I think you've been here long enough to know. [laughter]. 26

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- 28 Councilmember Elrich,
 - Sometimes you know, you move something and then you get slapped and said, no, you can't talk about it until afterwards. So I wasn't sure what to do. I just wanted to say that, yes, Mike and I aren't always allies on every issue, but I think you know, that the most important thing to being productive is not whether or not you agree with people all the time. It's whether you can work with people all the time and I think you know, that you've shown over the last year at least to me and what I feel has been most productive, is that it's not the areas of agreement or disagreement, but your willingness to engage in productive discussions and to try to get the answers and try to get to solutions. And I think that it's getting to solutions and carrying on a discussion in a way that encourages people to focus on the solution and not on the differences that's really important. And I think you've contributed to that in a very productive way and I think facing the
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- 40 challenges that we're going to face over the next year, it's really important that that's the
- 41 kind of spirit that's brought to the leadership of the Council and I'm confident that you'll
- 42 be able to do that and I think that you know, you share a lot of my concerns and
- 43 certainly Marilyn's concerns on fiscal responsibility. We've had a lot of discussions



about that and I think that's going to be very important for the next Council. And I look forward to looking with you.

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- Councilmember Knapp,
- 5 Thank you very much. Now comes the little bit awkward part, but I thank, we have, I see
- 6 no more nominations and so we have the motion before us. The motion has been made
- by Mr. Elrich and seconded by Ms. Floreen nominating Michael Knapp to be Council
- 8 President. [laughter]. That would be the awkward part, trying to do that in the third
- 9 person. How did that go? [laughter]. Okay. So, the vote before us is on the motion by
- 10 Mr. Elrich. All in favor. It is unanimous among those present. Thank you very much.
- 11 [applause]. We now move to nomination for Council Vice-President. Mr. Leventhal.

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- 13 Councilmember Leventhal,
- Mr. President, congratulations to you, you have my complete confidence. I know you're going to do a great job.

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- Councilmember Knapp,
- 18 Thank you.

- Councilmember Leventhal.
- I want to just comment on how, what a great a job Alison did representing her mom,
- 22 how much she resembles her mom both physically and in her statesmanship and ability
- of public speaking. So it was great to have Alison and Don here and we look forward to
- have Marilyn rejoin us. It was great serving with her as Council President. I just wanted
- to, before I place Phil Andrews' name in nomination for the office of Vice-President, I
- just wanted to comment briefly. People frequently ask, what, how does this process
- just wanted to comment briefly. I eople frequently ask, what, now does this process
- work, what is this about, this process of electing Council officers? And it isn't well
- understood. And it is different in different jurisdictions. In the District of Columbia, in
- 29 Fairfax County, in Baltimore City, and some other of our neighboring jurisdictions, in
- Virginia, they elect a Chairman or a President for a four-year term by the voters. And so
- it's not well understood and in any given year each Council President frequently has to
- re-explain how the process works. But I like our process. I think it has great advantages
- and I think it has benefits in particular for our ability to work together. Because if you
- want to be Council President, you have to be liked by a majority of your colleagues. And
- that's a very, very important mechanism to keep us collegial and to keep us respectful
- and to keep us working together and listening to each other. So I think it's a very
- positive process. And if you want to be Council President, number one, you have to be
- able to count votes because you need your own vote plus four to get to a majority. You
- 39 need to persuade your colleagues that you will represent the body well and that
- 40 Councilmembers can have confidence that you will listen to them so that you will know
- 41 as presiding officer that you are speaking on behalf of the body because you know
- 42 ahead of time. You've spoken to your colleagues ahead of time, you've listened to them,
- 43 you've taken their temperature and you won't embarrass the body. And we know you
- 44 Mr. President are so ready for this and we have great confidence in you and we look



1 forward to working with you and I have extraordinary confidence in our next Vice-2 President, Phil Andrews who has been an excellent Chairman of the Public Safety 3 Committee, who's shown great fairness and studiousness, who's learned the issues 4 which are very complex in front of that Committee. I know that our police department 5 and our fire and rescue and all of our public safety officials have great respect for Chairman Andrews and know how carefully and seriously he takes his responsibilities in 6 7 that role. And all of us enjoy working with Phil. He's very good natured. He's a good 8 listener. He's very good at counting votes and he makes sure when he brings proposals 9 forward that he knows how they are going to stand in the full body and that's the skill 10 that is going to make him when his time comes an excellent presiding officer. Phil's in his 9th year as a member of the Council and he has waited patiently and good naturedly 11 12 for his turn at leadership to come around on the wheel and now it's here. And I just 13 appreciate working with Phil. He's a good friend and a good colleague and I know he's 14 going to be an excellent Vice-President and an excellent presiding officer when it's his 15 turn.

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Councilmember Knapp,

Thank you Mr. Leventhal. And thank you very much for your remarks. As former Council President I know that you take the job very seriously and I think you learned a great deal and I appreciate you sharing with all of us as we begin on the next year as to kind of those things we should be looking forward to. And I think that Mr. Andrews espouses all of those elements that you've just identified and will ably serve the Council and so I think it's a wonderful nomination. We have before us nomination for Council Vice-President of Mr. Andrews made by, the motion made by Mr. Leventhal. All in favor? That is unanimous. Congratulations. [applause]. Okay, at this point, we would give the gavel to Ms. Praisner. We will wait for her return hopefully in January and we will have an opportunity to be able to do that at that point in time and we look forward to her return. I have just a few remarks to make as we transition through. As we've already said. I think that Ms. Praisner has laid a solid foundation for us to move forward. I think the relationship that she and the County Executive have struck over the course of the last year will serve us all well especially given the issues that we have coming before us as it relates to the budget. I wanted to start though by just saying lest anyone think that anyone in this position gets, takes themselves too seriously. I got home after the ball last evening and I had two notes from my daughters. I think my youngest daughter said it best. She is eight years old and it reads like this, dear daddy, you made it, you're President. This is a big step from being an old person to being President. [laughter]. Almost like President of the USA. Okay, not really but play along. Love Sydney. So rest assured there's no one in the house that's going to get too carried away. If I do, clearly my 8-year-old will keep me in line. I wanted to thank my colleagues very much. Thank you for the kind remarks. Thank you very much for your commitment to our County. I think that for all the issues that we deal with, sometimes it is difficult to keep all of the pieces in the right perspective. And I think we've done well so far and I appreciate all of your efforts to making this County as good a place it can possibly be. I want to thank our Council staff. They do a tremendous job. Ms. Praisner through Alison has already



- recognized their efforts. They do a wonderful job and I think it's important for us to
- 2 continue to cultivate and collaborate the most professional staff we have in the state.
- 3 And ladies and gentlemen, I thank all of you for your efforts, participation and advocacy.
- 4 Many of you are here often and we appreciate that. I have just a few remarks and for
- 5 those of you who have been here for the last session, I'm not one that makes speeches.
- 6 I think this is the second now in five years. So I will try to keep it shorter than Mr.
- 7 Clinton's speech in 1988 at the convention. I wanted to also take --.

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- Councilmember Floreen,
- Does that mean we should go get a cup of coffee? [laughter].

- Councilmember Knapp,
- No, it won't be that long. It won't be that long. I wanted to thank Ms. Praisner's staff, Joy,
- 14 Claire, Sherry, Pat and Jackie for their efforts over the course of the last year. They
- were all just a little bit too gleeful this morning. Joy likened the Council presidency to
- some a bit like a boat owner. The best two days you have are the day you buy the boat
- and the day you sell the boat. And so I was a little struck by that. And I know, so, it was
- interesting. [laughter]. Anyway, and I know they've worked very, very hard over the
- course of the last year and I know that my staff is looking forward to picking up that
- 20 mantle. This past month has been very difficult for many of us as we have all come to
- 21 understand how precious life is due to the various accidents we've witnessed through
- Mr. Leventhal, Ms. Praisner. And more significantly our thoughts and prayers continue
- to be with the families and friends of Delegate Jane Lawton. In her passing, we have
- lost an outstanding elected representative, our County has lost an outstanding
- employee, and we have all lost a dear friend. As we reflect upon though what is
- important in our lives, I think we all recognize what a blessing it is to live in Montgomery
- County. We're one of the most prosperous Counties not just in Maryland, but in the
- 28 nation, with County revenues that would make some states envious. We preside over a
- thriving public and private sector with successful economies of their own. The High
- Tech Business Corridor straddling I-270 invigorates our communities with new ideas
- and new ways of thinking. Our population is likely to top one million residents over the
- next year, making us the most populated County in Maryland. We have one of the top-
- The type of the most populated county in Maryland. We have one of the top
- ranked education systems in the United States, with one of the best community colleges
- in the nation in Montgomery College, and where every high school in our County
- consistently places in Newsweek's Top 1000 rankings. We have an Agricultural
- Reserve, which is not only a model for preservation, but also lets us enjoy and play
- among some 90,000 acres of beautiful Maryland scenery while keeping farming alive as
- a viable occupation in our County. Whether you're a landscaper in Damascus, waiting
- tables in Rockville, conducting research in Bethesda or managing a small business in
- 40 Silver Spring, chances are, you're working hard and succeeding in Montgomery County.
- 41 But there are challenges before us. Like every thriving community, as we've heard in
- 42 Ms. Praisner's remarks, we're struggling with our growing pains. Our roads are crowded
- and our transit systems are showing their age. And while we're working to improve our
- 44 mass transit, even the ever-popular Metro remains inaccessible to large populations of



1 our County. We're staring at a potential budget gap, estimated as high as \$400 million 2 that could affect how we fund the programs and services that we've all come to rely and 3 depend upon. And for all our success as a County, there are still plenty of people in our 4 communities who go to bed at night hungry or have to sleep in their car. This is our 5 County then, diverse, complex and wonderful. As a Councilmember, I am honored to have had the opportunity to meet and talk with residents across our County. They all tell 6 7 me the same thing. They like their communities, their schools, their parks, and their 8 neighbors. In short, they like what they see, and where they live. I want to ensure that 9 we in County government are living up to their high expectations. It's one thing to say 10 that we are great, it's another to really show it. To that end, I've asked the County Executive to submit Montgomery County's application for the Baldrige Quality Award so 11 12 we'll know exactly how we're doing. We'll also have some initial feedback next week 13 when we receive the results of the reinstated county-wide survey that Ms. Praisner has worked closely with the County Executive on. And the feedback we receive will help us 14 start asking the right questions as we work to give our residents a government that 15 16 responds decisively and intelligently. Our residents deserve at least that much. It is, after all, their government. How do we go about this then? First, we must remember that 17 a government only governs with the consent of the governed. Treat people well. Take 18 19 care of the people working within government, and take even better care of the people 20 we serve. People are our strongest asset, and no investment pays higher dividends. 21 Government, in all its glorious complexity and dysfunction, will always be here, our job 22 is to figure out how to implement a culture of service within that system. Too often, 23 government relishes in its own monopoly. If you don't like the way we do it, well, then, tough. Where else are you going to go? Our challenge is to create a government culture 24 25 that values customer service as its primary objective, and that rewards its employees for exploring ways of doing business better. We need to adopt the so-called Noah Principle, 26 27 which says there are no prizes for predicting rain, only for building the arks. That kind of investment in our people, valuing their contribution, will pay off in creating a more 28 29 dynamic government culture. And then there are the times when government practically 30 flaunts its own complexity. None of the pieces seem to connect. The buck doesn't seem 31 to stop anywhere. No one seems to be in charge. Ever try to figure out who's really in charge of implementing a Master Plan? Good luck. It's a process that no one owns. And 32 33 that's not necessarily a failure of the people involved; it's a failure of the culture we've 34 set up within government. We need to change that culture. We need to keep things 35 simple. Let me give you a real example. In the Council Office Building, no matter which 36 door you enter, you probably won't know where you are. It is. There are no convenient 37 maps of the building tagged with you are here, no signs posted telling you where 38 anything is, no one manning a front desk. And here you are, trying to find a Councilmember, maybe the Department of Housing and Community Affairs, or just a 39 40 conference room for a meeting, and you have absolutely no idea where to go. 41 Everything you may need is somewhere in the building, but you don't have the first idea 42 of how to find it. You probably can't even figure out which floor you're on. That, at times, 43 is our government. We might very well have services and programs that people need, 44 but the doors aren't labeled. We're not always clear about which door to come through,



1 or even where to knock. Sometimes making government more accessible and making it 2 work better is as simple as hanging a sign on the door. Other times, it's as simple as 3 setting priorities. Every year for the past three years, I've asked government 4 departments and agencies to determine their priorities and establish goals across their 5 programs. This is not an intellectual exercise. I want us to determine what is really important. As Mr. Elrich often asks, what is it we're really getting for our money? Where 6 7 can we work smarter? How can we better focus our resources? I look forward to 8 working with each of my colleagues during this difficult budget to get answers to these 9 questions. We need to stop measuring the success of a program by reciting how much 10 money we've spent on it, and focus instead on the results of that investment. Spending 11 smarter means, perhaps more than anything, investing in people. I've talked about 12 investing in people in County government, and that helps us in getting to our real work, 13 investing in the people of this County. People are here in Montgomery County because 14 they want to be here. They want to work here, play here, raise a family here, and stay 15 here. People remain our greatest asset and we need to provide an environment in which all of our residents have the resources and opportunities they need to be 16 17 successful. First, we need to provide our children with a solid foundation so they come to school ready to learn from day one. That means investing in early and all day Head 18 19 Start, and community-based pre-kindergarten programs. And while children are 20 learning, we need to ensure that parents know their children are safe and well-cared for by investing in high quality day care initiatives. These are matters that I know are 21 22 especially close to the heart of my colleague Ms. Ervin, and I look forward to working with her in the coming year on these issues. We must also continue to invest in our 23 24 students. We preside over one of the most successful education systems in the country, 25 and we need to be careful stewards of the largest and most important part of our budget. We need to be mindful of the diverse needs and goals of our students and do 26 27 all we can to provide opportunities for each and every one of them. Issues like the achievement gap are real, and we've made measurable progress yet more needs to be 28 29 done. We know which occupations will be most in demand in our County in the coming 30 years, nursing, teaching, information technology, life sciences. I've talked with countless 31 students who want to live and work in our County after high school, who want to give 32 back to their communities. That's a good crop from which we can harvest and I'm 33 proposing that we grow our own in these fields. We should do what we can to keep 34 those students close to home. These students are the future entrepreneurs of our 35 County. They're the ones who will grow our businesses, create new technologies, and will ultimately be our future employers. Let's keep them, their energy, and their ideas 36 37 here. I will propose a scholarship program that helps our County meet its future 38 workforce needs but, more importantly, invests in young people that will help make a difference in our County, and will also better leverage our existing education resources, 39 40 like the University of Shady Grove, Johns Hopkins and Montgomery College. And, of 41 course, if we're determined to keep our students here as adults, we need to ensure we 42 provide them with the basics for which any good government should be responsible, 43 real issues that we've all discussed, but need to begin to act upon. We need to continue 44 in invest in great schools and great teachers. We need to take care of our residents'



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1 health needs, both their physical and, as Ms. Trachtenberg reminds us, our mental 2 health needs as well. We need to continue to look out for our open spaces and protect 3 our environment, an ongoing mission for Mr. Berliner, and ensure we have first-rate fire 4 and police protection, as Mr. Andrews tells us time and again. We've got to work harder 5 to make housing affordable, so those who work in our County can continue to live hereand while we're at it, we've got to more closely focus our efforts to conquer 6 7 homelessness. In a County as prosperous as ours, there is no reason for any of our 8 residents, especially those who are working regular jobs, day in, day out, to be 9 homeless. I look forward to working with Mr. Leventhal on this critical issue. We should 10 also keep in mind the large number of adult learners we have in our County, be it someone looking to change careers, learn English as a second language or simply 11 12 eager to participate in opportunities for life-long learning. Any adult who wishes to 13 change professions should be able to access the education system conveniently and find the training he or she needs to learn that new profession. Montgomery College 14 already works with hundreds of businesses, training and certifying tens of thousands of 15 16 people. We must continue to capitalize on our own successes and theirs. We will work more in the coming year to focus on our aging and elderly. We need to invest in this 17 group now with the rising baby boomers, they promise to be a larger and more vocal 18 19 segment of our community. This group already contributes more volunteer hours than 20 any other population, and they make it look so easy we often take their contributions for 21 granted. We need to acknowledge and honor their commitment to their County and 22 communities. We also need to ensure that one of our County's economic engines, the 23 property tax, doesn't tax them right out of a home that's likely been paid off for years. Ms. Floreen often notes, we should be proud they've chosen to age in place; we need to 24 25 ensure they continue to have the ability to do so and can afford to. We need to continue 26 to explore and invest in economic opportunities in our County. Given our current 27 success, we sometimes forget to ask ourselves what we need to do to keep improving. Sometimes when you look closely, you'll find out there are things you can be doing 28 better, and that's tough medicine for a County that considers itself great and ahead of 29 30 the curve. But things are changing quickly in this economy, and we need to continually 31 re-evaluate the way we do things. That is, after all, what great organizations and great 32 communities do. In short, we must provide our residents with a comprehensive 33 continuum of services, one that meets their needs and expectations. One that is 34 accountable, accessible, no matter which door you come through, and affordable. That 35 is the job of a responsive and responsible government. As Council President, I'm committed to working, I'm committed to a Council that takes the job of governing 36 37 seriously, works with people to resolve problems, discusses realistic solutions, and 38 listens carefully. Let's make government work smarter. Let's take advantage of our best 39 resource, our people, to make Montgomery County the best it can be. Let's get started. 40 And let's do it together. Thank you very much. [applause]. And now, if you give us just 41 one second, we actually have to switch some seats around and we'll be right back with 42 you in about 30 seconds so if you need coffee, now's the time to go Ms. Floreen. Okay. 43 Okay. Okay. Now, we turn to Council General Business. Ms. Lauer.



- 1 Linda Lauer,
- 2 The only addition we have to the Agenda is just an announcement that the Council
- wants to make about we did receive nominations from the County Executive for the
- Property Tax Assessment Appeals Board and they will be on the Agenda for 4
- 5 confirmation next Tuesday the 11th. We did receive two Petitions this week. One is
- opposing Bill 23-07 and the second one is supporting funding for senior services. Thank 6 7

you.

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- 9 Councilmember Knapp,
- Thank you very much. I will now turn to our new Council Vice-President for any remarks 10 11 that he might have.

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- 13 Councilmember Andrews,
- Thank you Mr. President. I very much look forward to working with you and my 14
- colleagues this year to make it a very productive year as we grapple with some difficult 15
- 16 budget challenges and work to continue to improve the quality of life in Montgomery
- County. I very much look forward to working with all of the Council staff. We have a 17
- terrific Council staff here and they provide invaluable assistance. We each have our 18
- 19 own personal staffs which support us very ably, but I also am one who spends a lot of
- time on the fifth floor where most of our Council permanent staff are located and I think 20
- that without them, we would be in much more difficult shape so I really appreciate the 21
- 22 great work that the fifth floor staff does. I really think that this will be a very difficult year
- 23 compared to the last few and it will pose some challenges that we haven't faced for a
- few years and we're going to have to come up with a way to balance all of the 24
- 25 competing priorities. That's our job to see the forest from the trees. And if we do a good
- job of that, and I know we'll all pull together to make that happen, I think we will come 26
- 27 out fine. So thank you for the opportunity to serve in this position. I look forward to
- 28 working with all of you. And thank you Mr. President.

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- 30 Councilmember Knapp,
- 31 Thank you Mr. Vice-President. We now turn to any Minutes to Approve. Madam Clerk.

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- 33 Council Clerk.
- 34 You have the Minutes of November 20th for Approval.

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- 36 Councilmember Knapp,
- 37 Is there a motion?

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- 39 Councilmember Trachtenberg,
- 40 So moved.

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- 42 Councilmember Knapp,
- Moved by Ms. Trachtenberg. Second? 43



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Yeah.

1 Councilmember Floreen, 2 Second. 3 4 Councilmember Knapp, 5 Seconded by Ms. Floreen. All those in favor of Approval of the Minutes? That is unanimous among those present. Now to the Consent Calendar. Is there a motion? 6 7 8 Councilmember Leventhal, 9 Move approval. 10 11 Councilmember Knapp, Moved by Mr. Leventhal. Is there a second? 12 13 14 Councilmember Floreen, 15 Second. 16 17 Councilmember Knapp, Seconded by Ms. Floreen. Any comments? Mr. Leventhal. 18 19 20 Councilmember Leventhal. 21 I want to speak just briefly on item B in the Consent Calendar but before I do. I 22 appreciated Mr. President hearing the letter from your daughter Sydney and I just wanted to point out. I know that the press release announcing your election will make 23 this point, but I wanted to highlight for my colleagues and for the media that not only are 24 25 you our Council President this year, but you're also Chairman of the Board of the Washington Metropolitan Council of Government, so unfortunately Sydney and the rest 26 27 of your family are going to be making a lot of sacrifices this year. But we really appreciate the burden of leadership you've taken on, not only here in County but in the 28 entire region. It's going to be a very busy year for you and please call on us and let us 29 30 know how we can help you through it. But we know you're up to the task. 31 32 Councilmember Knapp, 33 Thank you I appreciate that. She actually recognized that this morning when she said, 34 so let me get this right, Council President means less here time, less Sydney time, more 35 other people time, right? 36 37 Councilmember Leventhal. 38 She's got it. Bright girl. 39 40 Councilmember Knapp, 41 Yep. 42 43 Councilmember Leventhal,

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Councilmember Knapp,She had that figured out.

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Councilmember Leventhal,

And so, now let me turn to the subject of icky grease from restaurants which in Montgomery County, we're going to embark upon, we're not the first in the nation, but we're among the first in the nation to embark upon a really innovative program where, which should bring down the cost to restaurants of disposing of their grease. And what restaurant grease is, is it's the raw material that can be used to power our vehicles, not only our vehicles here in the County government, but we also hope to generate enough fuel through this initiative to be able to sell some to the private sector. Bio diesel is a very excellent replacement for petroleum based diesel and you can make it from vegetable oil and you can make it from restaurant grease. So many will recall that we had the Montgomery County student environmental activists, high school students who had researched this issue. Other local governments around the country are moving in this direction. We heard from the high school students, the results of their research and the T&E Committee today is bringing forward this resolution creating a working group to generate bio diesel from restaurant grease. Mr. Berliner has been asked, has asked to join as a cosponsor. It was actually a joint meeting of T&E and MFP that the high school students addressed but by the time we were ready to report out the resolution, we had lost the members of the MFP Committee. So we reported it out just on behalf of the T&E Committee. But this is an exciting initiative. It's one that I think is going to bear long-term benefits for our environment, for our air quality and for the local economy.

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Councilmember Knapp,

Thank you very much. Mr. Andrews, Council Vice-President.

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Councilmember Andrews.

Thank you Mr. President. I wanted to comment on item F which is an action for the appointment of a special counsel to provide legal services in connection with the evaluation, adoption and implementation of an emergency medical services transport fee, also known as an ambulance fee. It's important to clarify what this is a vote on today. This is not a vote for or against an ambulance fee and I would add I have significant concerns about an ambulance fee. I need to be persuaded that it would be good policy. I'm concerned about the prospect of someone not calling when they need help because of either misunderstanding or because of the fee itself. That said, the Executive is interested in this and this would provide the information that he believes is necessary for us to understand how an ambulance fee would work if it were implemented. And so that's what this action is about and I will vote for it.

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Councilmember Knapp,

Thank you very much. Councilmember Floreen.



1 Councilmember Floreen,

2 Thank you. I had a couple of items I wanted to comment on. First is the item A, the End 3 of Year Transfer for Fiscal 07 County Government Operating Budgets. I would ask for a 4 report from Ms. Hamilton with respect to the library situation. We've worked hard over 5 the years to increase services within the library system and I was quite distraught to read the report that indicated that one and a half million dollars of the library budget was 6 7 not used to serve the public this year. And good for other agencies, but not good for 8 library service because I worked hard on, along with Mr. Andrews frankly, in making 9 sure that the library system had the resources it needed and should have to serve the 10 public. And I would like to have a full report from Ms. Hamilton as to how that, the problems in achieving that end. There's an explanation in the packet, but I don't believe 11 12 it's sufficient and I'd like to understand certainly before we get into the next budget 13 season. The second item, item D. I'll just comment. The T&E Committee worked with our staff and adopted the recommendations of the Park and Planning Commission 14 15 primarily in this rather technical issue, but relevant to the road code in terms of defining 16 the kinds of communities that would be receiving the benefits of the different standards of analysis. So we added, just so the Council knows, we added in the Town Center 17 Districts that had been eliminated in formal conversations to ensure that we will see the 18 19 kinds of communities that we have planned for in the implementation side of the 20 planning issues. As Council President pointed out, oh so correctly, we're good on the ideas, we're less good on the details. So we hope that will help that conversation which 21 22 is ongoing right this very minute. And then finally, I will just comment on item E which is the implementing regulations for our green building legislation. T&E Committee is going 23 to be very busy this year on our additional environmental initiatives that are coming 24 25 through the pipeline but this implements our green building standards that were adopted last year, still required some work in terms of the, the implementation elements that the 26 27 public needs to understand before they can satisfy our requirements and I'll note they will go into effect, I believe September 1st. Or, they're in effect for all new buildings that 28 29 come through the pipeline as of September 1st. So notice is out to the public now as to 30 what is going to be expected and how it will be addressed.

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Councilmember Knapp,

33 Very good.

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35 Councilmember Floreen,

So we have been busy so far and we will continue to be busy on all these important issues.

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39 Councilmember Knapp,

40 Thank you Ms. Floreen. Councilmember Elrich.

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42 Councilmember Elrich,

43 I just wanted to make a quick comment on the bio diesel legislation which I would be

happy to be also a cosponsor of. I met with the student group early on and they brought



1 in some of their research and I asked them to go back and do some additional research. 2 And George and I met with them and it was really an impressive bit of work done by a 3 group of students and I kind of wish they were here now to kind of see this moving to the next level because they really I think opened our eyes to what was possible and you 4 5 know, could tell you everything from you know, where it was being done in the country to the size of a bio diesel reactor and what it would look like and how it would fit on a 6 7 site. And I was very impressed by the work they did and maybe they are taking their 8 college exams now, or maybe they are trapped in some high school somewhere in 9 Montgomery County today. But I wish they were here to share this with us because I 10 really think that you know, it's here because of the work they did and I think that we 11 should acknowledge that.

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Councilmember Knapp,

Thank you very much. No more comments? All in favor of the consent agenda, or the Consent Calendar? That is unanimous. I just wanted to make a quick announcement. We are having students from the Pathway School who are joining us. They have actually been watching us downstairs on the fifth floor on TV as our earlier activities took place and so we're having, Delphine will bring a few up at a time just to be observing us for their social studies class. So just so everyone knows. We now turn to action on the confirmation of the County Executive's appointee as Director of the Department of Environmental Protection, Mr. Robert G. Hoyt. Mr. Firestine. Welcome Mr. Hoyt. Turn to the Chair of the Transportation and Environment Committee for any remarks.

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Councilmember Floreen,

Thank you. Well, colleagues, I am always suspicious of someone who gets such applause from every member of the community in their nomination, but Mr. Hoyt has, I've heard from a variety of sources as to how pleased they are that Mr. Hoyt is before us to become, fill the long awaited position of Director of the Department of Environmental Protection. We've got so much going on, on the green front from water quality issues to impervious standards to tree legislation to road code initiatives to climate change to energy conservation. You name it, Mr. Hoyt, you're going to be busy. We are all chomping at the bit to work you to death on these issues. We've already taken some steps but I have to say we are delighted to have you here to serve us and I assume you'll be spending a little bit of time with the County Executive but we've got a tremendous action plan for you. I would recommend that you find a desk over in this building so that we can have you at our beck and call at all times. Because we surely are going to need you and the experience you bring to this position is tremendous and a nice range of background implementation skills as well as big picture thinking and tremendous experience in the state of Maryland as well with the Chesapeake Bay initiatives and having experience of working with everyone on all sides of the table is critical to this kind of position. And I've particularly appreciated your comments, I'm a practical person as well. Because a realistic application of our lofty environmental goals



1 is going to be critical in the coming years. So we welcome you and am very pleased that 2 you're before us for our approval. 3 4 Councilmember Knapp, 5 Thank you Councilmember Floreen. Our CAO, Mr. Firestine. 6 7 Tim Firestine, 8 I just wanted to mention that Mr. Hoyt actually agreed to be submitted for confirmation 9 before we discussed the new addition to the Department of the Environmental Protection which is the solid waste responsibility. So, maybe we should give him an 10 11 opportunity to. 12 13 Councilmember Knapp. Now's your chance if you have second thoughts. [laughter]. 14 15 16 Tim Firestine. No, but he thinks that's a great idea. And we'll talk more about that as we discuss the 17 reorganization but the Department would change a bit with that addition. 18 19 20 Councilmember Knapp, The Council looks forward to that discussion. Mr. Hoyt, any remarks? 21 22 23 Robert Hovt. 24 Well, thank you for. 25 26 Councilmember Knapp, 27 Oh, you did. 28 29 Tim Firestine. 30 He did. 31 32 Councilmember Knapp, 33 He's in. 34 35 Robert Hoyt, I did? 36 37 38 Tim Firestine. 39 Yep you're on. 40 41 Robert Hoyt,

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44 Tim Firestine,

Got it...



1 No, now you're not. You're on.

2

- 3 Robert Hoyt,
- 4 Okay. Thank you very much for your support and I look very forward to working with you
- 5 even if you work me to death on all of the issues. I have to tell you I've been so
- 6 impressed with the level of knowledge and just your goals for this County. That's what
- 7 makes it so exciting for me to be here is to work with you on your goals for the
- 8 environment of this County. So, thank you. I will do everything I can to justify your faith

9 in me.

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- Councilmember Knapp,
- 12 Mr. Andrews, Council Vice-President.

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- 14 Councilmember Andrews,
- 15 Thank you. The County Executive spent a long time looking for the right person. I think
- he found the right person in Mr. Hoyt. Your background in getting things done to
- improve the environment is impressive and varied and your passion is evident. I think
- 18 you're going to do great and we all look forward to working with you.

19

- 20 Councilmember Knapp,
- 21 Thank you. Now I just would like to echo the comments of my colleagues. But I guess
- the comment that most stood out when we had a conversation was your willingness to
- bring people together, not necessarily just for a consensus and to reach a middle
- 24 ground but to really reach the right answer, but working together to get to that right
- 25 answer. And I think that between the Executive, the Council and the community, there
- are going to be lots of opportunities to do that in the coming years and so we thank you
- for your willingness to serve. We have before us the confirmation of the County
- 28 Executive's appointee to the Director of the Department of Environmental Protection,
- 29 Mr. Robert G. Hoyt. All in favor?

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- 31 Council Clerk,
- We need a motion, Mr. President.

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- 34 Councilmember Floreen,
- That was my motion.

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- 37 Councilmember Knapp,
- 38 Motion, do we have a second?

39

- 40 Unidentified
- 41 Okay.

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43 Councilmember Knapp,



- 1 Motion made by the Chairman of the Transportation and Environment Committee Ms.
- 2 Floreen and seconded by Councilmember Elrich. All in favor? That is unanimous.
- 3 Congratulations. [applause]. And we now have before us a confirmation of which we
- 4 are somewhat more chagrined by, [laughter]. We now have the confirmation of the
- 5 County Executive's appointee as Assistant Chief Administrative Officer Ms. Kathleen
- 6 Boucher. This doesn't come through any particular committee and so I will just comment
- on the remarks I had made last week. Kathleen has a strong background of working at
- 8 the state, within the state government and working in County government and from all
- 9 that we can see, everyone she's interacted with has nothing but accolades to say. Her
- time on the Council was significant. I can tell just by the comments that my colleagues
- have made both in public and in private, you are an asset that will be sorely missed.
- 12 And we hope the County Executive and the CAO truly appreciate the talent that they're
- 13 getting. And we may be calling periodically for some you know, a little bit of help every
- now and then. But no, Kathleen has done a tremendous job and you are creating a hole
- that will take us a while to fill here at the Council and so we thank you so much for your
- that will take us a while to hill here at the Council and so we thank you so much for you
- efforts and just your commitment to the County. And we look forward to working with
- you on the other side of the street. The positive element of this is that, at least as I
- understand it, you will, in your duties and responsibilities, will be serving as liaison with
- 19 the Council. And so that we will have, continue to have direct contact and so perhaps
- we can get a little extra work taken out of you that way. So, with that, Mr. Berliner.

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28 29 Councilmember Berliner,

I just want to echo your comments in terms of how much you will be missed. And I had the privilege of working with Kathleen on 26 different measures that are included in the global warming package that we introduced a couple of weeks ago and when we were thinking about who could we have on staff that could take the lead with respect to this, that would pull this together, the level of detail that's required, the level of research, the level of collaboration with her colleagues, it was clear that Kathleen was really the best person to do it. And I was so grateful to you for your work with respect to it and do look forward to working with you in the future and am very sorry that they stole you.

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Councilmember Knapp,

Council Vice-President Andrews.

33 34 35

Councilmember Andrews.

- Thank you. You will be very much missed over here. The Executive has a great eye for talent. And we want to know how many first round draft choices we're going to get. We
- will see you later in the afternoon for the discussion of the Bill on deer management
- which you've worked very hard and long on. So we know you won't be going too far
- 40 which is some consolation. But you'll be a tremendous asset over there and we look
- forward to seeing you a lot here.

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Councilmember Knapp,



1 I'll take your comments as a motion and then I'll turn to Councilmember Floreen for her comments as hopeful a second.

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- Councilmember Floreen,
- 5 Sure, I'll second it, but I must say, I'm not going to miss Kathleen because she's going
- 6 to be right here implementing Council policy that she wrote and maybe one of the few
- 7 people who fully understands. So we do, I view Kathleen's position over in the County
- 8 Executive's staff as a direct pipeline to us. A great wealth of knowledge. Ability to work
- 9 with challenging initiatives and translate really good goals into practical reality. And
- that's going to be a lot, a certain amount of your job description as I understand it on the
- other side of the street and that's exactly what we need. Someone who's worked these
- issues from soup to nuts and you sure have. You've done many of our most difficult
- issues, translated them into legislative standards and goals that hopefully are being
- achieved right now. And we expect more great things from you. So I view this as just a,
- really, a step up for Kathleen that allows us to get more of what we want to get done,
- 16 done.

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- 18 Councilmember Knapp,
- 19 A true glass is half-full kind of a statement. We thank you. We now have before us the
- 20 motion appointing Kathleen Boucher as Assistant Chief Administrative Officer. All in
- favor? That is unanimous. Congratulations. [applause].

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- 23 Kathleen Boucher,
- 24 Thank you very much. Thank you.

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- 26 Councilmember Knapp,
- You can make any additional remarks if you would like.

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- 29 Kathleen Boucher.
- 30 I guess, I just, you used a word in your comments Mr. Knapp, your speech about feeling
- 31 blessed to be a resident of Montgomery County. And I guess I just wanted to say I do
- feel blessed to be a resident of Montgomery County and I also feel blessed to have had the opportunity to work for the Legislative Branch of government in Montgomery County.
- 34 And I'm looking forward to working for the Executive Branch and continuing a
- 35 relationship with the County Council as well. So thanks Steve Farber for giving me the
- opportunity to work with you and I look forward to continuing that in the future.

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- 38 Councilmember Knapp,
- 39 Thank you very much.

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- 41 Kathleen Boucher,
- 42 Thank you.

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44 Councilmember Knapp,



1 We look forward to seeing you this afternoon.

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Tim Firestine.

4 But she'll be representing the Executive.

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Councilmember Knapp,

That's all right, we still like her. She's got a little bit of a grace period. Okay, we now turn to action on Resolution to establish FY09 Spending Control Limits for the Washington Suburban Sanitary Commission. Chair of the T&E Committee, Councilmember Floreen.

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Councilmember Floreen,

12 Thank you Mr. President. Mr. Brunhart is here from WSSC and we have a

Commissioner, the Chair Mandel with us as well. I have to say that what we have before

us is a facing up to reality budget recommended by our staff, the WSSC and the T&E

15 Committee. I will say that Mr. Leventhal was home picking out, possibly in the hospital

16 at this point picking out deer fur from his face so we did not burden him with a

Committee recommendation here. But basically, some of you will recall that last year, 17

WSSC came to us with a very aggressive spending plan and we along with Prince 18

George's said, let's put together a long-term program for dealing with WSSC's very

significant capital needs. They did that. They came back with a 30-year fiscal plan which

Mr. Brunhart tells me amounts to basically a 12 billion dollar backlog of stuff that needs

to be done. Unless we all want to answer phone calls from constituents every night and

23 every weekend this winter and future winters with respect to broken pipes in their

communities, the fact of the matter is we need to sit down and shoulder the burden 24

collectively as to how we're going to fix our significant aging infrastructure. Now, we talk

a lot about infrastructure here and have done that this year, but if there's anything that's

27 more critical to our ability to function just as a people, it's accessibility to water and

sewage systems. The, this was on our agenda for action last week. We put it off for a

week because we had just gotten the Prince George's recommendation for the

30 Spending Control Limits. But what the, so we thought about it, but I think the Committee

is going ahead with what we had put on the table previously which was really to stand

31 32 with the County Executive Leggett on a proposal that anticipates a maximum average

33 rate increase of about 9.7% as well as a ready to serve charge which could be, it's not

34 final at this point, but it could be as much as \$20 a month. That would be a charge in

35 addition to the basic rate payment. The challenges for WSSC is that their revenue has

been flat and they need significant new technology as well as CIP projects to continue 36

37 to serve the public. Fundamentally, this will get them, I believe if this is right for fiscal 09,

38 increases in water main replacement of an additional ultimately of 40-miles a year. Is

39 that correct?

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Andy Brunhart,

42 Overall.

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Councilmember Floreen,



Overall. And for sewer main rehabilitation ultimately up to 95-miles a year, currently I think it's nine miles a year based on the statistics I have in front of me here. The costs are rather daunting but we think it's time to put on the table the reality that we face as a region and as a community to make sure that our residents continue to have reliable access to water and sewer services. These are just guidelines at this point, people should know. It's setting the stage for further conversations with Prince George's County which will be resolved later on this year. Really ultimately in May. We are not in agreement with Prince George's County which recommends a more reduced rate increase of 9%, 8%. We have, we will continue to engage in conversations with them and I'm very hopeful that we will be able to reach agreement over this in the coming months. But we do have an obligation I think to remind ourselves and the public of our fundamental obligations and this I think is one of the most basic of those. And I would like to ask the Chair of the Commission or the manager to address these. Mr. Brunhart or Ms. Mandel.

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Andy Brunhart,

Well, good morning and congratulations President and Vice-President. I would like to just initiate my remarks by just reemphasizing you are not approving a budget today. That action happens by both Counties together next May. This merely sets the guideline for the Commissioners to consider when they establish and set to public hearing the FY09 Budget which they have not done but we'll consider that in December. The Commissioners have indicated a preference. The preference is very close to the County Executive recommendation and therefore the T&E recommendation of, they're at 11 and a half percent rate increase and a \$20 per month infrastructure removal or ready to serve fee for an average individual resident. The County Executive's idea is to fund what is really a five year infrastructure, IT ERP challenge from fund balance and therefore take the 11 and a half percent down to 9.7%. I won't belabor that thought because I know the County itself is very much engaged in the question and funding of ERP for the County itself so it's exact mirror to challenge we have. That's the fiscal challenge. I think it's very important that we take the long view which Councilmember Floreen has indicated. We have looked at this with due rigor. A couple of bumper stickers for you that are real, they're not imagined. 25% or about 1300 miles of the 5500 miles of buried water main today have reached the end of useful life. By the year 2020. 85% of that 5500 miles will have reached the end of useful life. So we are today, behind the power curve because our water main breaks are in a trend up like this. It will literally, if we locked in and we're fortunate through our collaborative process between the two Counties to start to attack that backlog, it would take us literally four years to ramp up and an additional approximately four years to get ahead of it. We are behind right now. So even at locking this in, we're going to be in a catch-up mode for several years. The prospect of not addressing this problem guarantees that we are going to have a much longer, many more and much more widespread water main breaks therefore water outages in our two Counties across the next decade or so. So this approach, my last point is on the Infrastructure Renewal Fund, excuse me, is to create a separate distinct fund called Infrastructure Renewal, in statute it's called ready to serve, which would be



- 1 completely fenced by resolution language hopefully in harmony between the two
- 2 Councils which only therefore allows WSSC to spend this money on two things,
- 3 renewing water main or sewer main pipes. That's what we're asking. We're not asking
- 4 to fund anything else by that so we can increase our pace substantially of those. It's
- 5 also a long view because we would look at it across the first ten years of establishing
- that, of course, with Councils, both Councils, reviewing our progress per annum. That is 6
- 7 my three main points for you today in summary. The last point is one of encouragement.
- 8 This is not a challenge for Montgomery or Prince George's County alone. Many, many
- 9 municipalities, Counties and cities throughout the nation are facing this challenge. It's a
- 10 matter of at what pace we will step up to the challenge and together, after
- 11 understanding the challenge, how we will decide in the most collaborative sense the
- 12 pace we're going to take over the next decade. Nobody wants, I don't want my electric
- 13 bill, my utility bill, my water bill going up, but I do understand that infrastructure has
- reached end of useful life and it's time we need to do something. It will take courage 14
- 15 from us all to do this. We are by the way, very much out with the community. I'm going
- 16 to be on channel 4 tomorrow night on this very question talking to chambers, rotaries,
- business round tables to get this message out as well. So I encourage you to sustain 17
- 18 and approve the guideline from the T&E and from the County Executive in this matter.

20 Councilmember Floreen.

- 21 And let me just say there are about 70 pages of additional detail before the Council. It
- 22 has been a work in progress and we're not at the end by any means. I think it's very
- 23 important to appreciate that but as I said, this is the year, clearly, of facing realty and
- this, I think, is one of the most basic elements of it. That I think it's important to frame 24
- 25 this conversation with the limits that we're recommending and those that Prince
- 26 George's is recommending and allow the conversation to continue within that
- 27 timeframe, framework. And let me just say, Councilmember Ervin I know would like to
- 28 comment on this from our committee.

30 Councilmember Knapp,

- 31 That's what we're going to do. Starting with, starting at the end, Councilmember Ervin.
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- Councilmember Ervin,
- 34 Thank you very much. First of all, I wanted to welcome the Chair. Nice to see you here.
- 35 And I want to address a couple of things, noticing that we have some young people in
- the audience I wanted Mr. Brunhart to address or encapsulate if you will for the young 36
 - people who are here what they will inherit if we don't fix this problem.
- 39 Andy Brunhart,
- 40 I'd be very happy to do that. I apologize because I need to speak into the mic, but I am
- 41 speaking to you with my back to you. What you might not know of the sense of history is
- 42 that our grandparents, my grandparents, and my parents, and therefore most
- 43 Councilmembers -- those two generations paid for putting this infrastructure in the
- 44 ground starting about 1910, 20s through the 30s, 40s and 50s. They paid for the



system. We are the first generation, my generation, who is facing a fact that this larger infrastructure, in this case, it happens to be water and sewer mains but the same thing is applying to our buildings and highways. Our water and sewer mains have run out of life. So, our generation has a challenge and part of our question is, what are we going to do with this challenge? Is our generation going to step up to this challenge, which I argue that our grandparents and parents did, or are we going to delay and keep thinking about the challenge while it gets worse and let 10, 15 years, 20 years pass and then hand our children this challenge and if we hand it to our children, the problem is going to be ten-fold worse and the bill to fix it is going to be much higher. Because in the maintenance game, the longer you delay, the higher the cost is to fix it correctly.

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Councilmember Ervin,

Thank you for that. Because while we were in committee, there were a couple of things that I wanted to follow up with you on and I know you're doing a lot of public outreach, but I asked a question about how this will effect the rate payers in multi-family dwellings and single-family dwellings and so I hope that while you're out there talking to rotaries and business community that you really get way down into the community to the people that really are going to be asked to pay this bill about what this is really about, and what it means and how much it's going to cost them individually. I think that's really important.

Andy Brunhart,

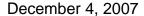
And thank you for reminding me of that. We did, of course, start some rigorous research instantaneous to your question. We're still looking at that very hard in that regard. We have found to date a pretty interesting range and now I'm going to have to get a little bit into depth and technical, bear with me for a moment or so because the infrastructure renewal fee will be set by the size of the water meter that supports an entity, whether it be a home or a large apartment complex. We have some large water meters in place that are overly sized for some of our large complexes. They don't need to be that big. And so, as Councilmember Floreen indicates, this is a work in progress. We will, for those cases, which will be on the high side, not charge individual apartment residents because they happen to have a large meter at the large meter cost, but we have to reassess what should be the size. So bottom line is, we have, so far as you saw in the committee, done a representative large complex in Montgomery and Prince George's County and the fee for apartment owner for those two complexes which were very large was in the range of \$4 a month.

Councilmember Knapp.

38 Thank you. Councilmember Elrich.

Councilmember Elrich,

- I'm a little concerned about the use of flat fees and so I guess, could you explain to me
- why that's more equitable than system-based on usage or system-based where
- 43 there's some relationship to the actual infrastructure costs or the provision of water to
- 44 maintaining this fund as opposed to just every homeowner paying a flat fee?





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Andy Brunhart,

I will and it's not, there is no perfect scenario. We ran 15 some scenarios. What we got to as close to equity is basing the fee again on the size of meter servicing a structure. The logic being, if I am, one of our largest customers is just say a federal government entity with a very large water meter and a very large complex, should that entity pay \$20 a month, the same as you and I pay at our house which was our first concept? The answer is I don't think so. That's not equitable. So the rate charge for the very small water meter that you and I have at our home compared to a very large meter that a federal government complex has, maybe within a couple miles of this building, would be much different. And so it wouldn't be a flat fixed rate for everybody. It'd be about meter size and then one makes the conclusion the different size of pipes in the neighborhoods are much smaller than they are with the 24-inch main servicing a large complex. That was our rationale. It's not perfect, but it's the best we've been able to come up with.

Councilmember Floreen,

And let me just add one of the matters of great concern in how you address this is the question of overlapping debt. And that is a way to avoid WSSC's debt to be counted as Montgomery County's in the scheme of the bond financing world as I understand it.

Andy Brunhart, That's correct.

Councilmember Floreen,

And so, having a separate charge of this nature allows them to advance much needed capital projects without them being counted against the County's capacity.

Andy Brunhart,

There's three important factors in addition come to mind. The one is the debt question. If one put this all in the rates as an example. What will happen is the WSSC debt on borrowed money will raise from 30 to 50% across the decade. All bells and whistles for the bonding agencies go up at the 40% part. In addition, if our debt should raise that much, it's going to effect both Counties' ratings because you carry a portion, as Wall Street sees it, of our debt in the total calculus just as Prince George's County does as well. One final point. This is the long view approach. Every year, we go through budget discussions as far as what the rate would be. This approach locks in frankly, a fence to count that allows us as engineers and capital planners to know that there's a count that's going to be here for which we can plan year 1, 2, 3, 4 and 5 because construction doesn't happen in two months for the appropriate and efficient ramp of replacement of the capital.

Councilmember Elrich,

What's the length of the bonds that we're talking about?



- 1 Andy Brunhart,
- 2 Oh, well, in general, the length of our bond is 20 years. But in this case you would be
- 3 total PAYGO. There would be no bonds because the fund would be there to fund all of
- 4 the water main and sewer main construction projects.

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- 6 Councilmember Elrich,
- And what's the life, would you expect of these projects? I mean, if we do new mains,
- 8 how long do you expect them to last?

9

- 10 Andy Brunhart,
- 11 Oh, okay. We expect, in today's materials, approximately 100 years. Today, we are
- expecting at our current recapitalization rate for these mains to last between 175 and
- 13 200 years. They aren't going to last that long.

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- 15 Councilmember Elrich,
- 16 I guess, I'm interested in how this discussion evolves. I mean PAYGO concerns me
- again because you've got an asset which has got a 100 year life and you're trying to pay
- for it in a very, very short term and it seems to me that it's fair to spread those costs out
- over people who are going to benefit from that for a longer period of time. I think these
- increases are large. I think we have to do this. I don't have any question about whether
- we need to face up and deal with the infrastructure because it's been neglected far too
- long. I have some questions about whether this is the most equitable funding
- 23 mechanism for us getting there. And I'll ask you more guestions.

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- 25 Andy Brunhart,
- Let me answer one for sake of time.

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- 28 Councilmember Knapp,
- 29 Right.

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- 31 Andy Brunhart,
- 32 Let me answer the one question. Hypothetically at a \$20 rate, okay, in the water side,
- we would end up doing about 50, 55 miles of water main per year for a decade. That
- means we will have replaced 500 to 550 miles only of 1300 miles that are end of useful
- 35 life right now. So this is a plan, starting a plan which likely needs to continue over the
- 36 next three decades.

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- 38 Councilmember Knapp,
- 39 Very good. Councilmember Berliner.

- 41 Councilmember Berliner,
- Thank you Council President. I just would share with my colleagues as I'm sure you
- 43 appreciate, in the year that I've been on the Council, I doubt there has been a month
- 44 that has gone by that there hasn't been a water main breaking in District 1 and Chevy



Chase, Bethesda community which was one of the older communities that is served by this system and it is not being served well today. And you don't even, you don't have just the issue of the water breaking, then you have all the issues with respect to the road replacement and what happens to the roads and the infrastructure so in terms of quality of life, it isn't just water we're talking about. We're talking about every day people are going, this is not a pretty picture. So I think the day of reckoning has clearly come and we need to attend to it. So, it's not a pretty situation. No one likes to have to support increases of this magnitude, but the magnitude of the task in front of us is quite daunting and as we've just heard, this only funds a portion of it, so I do appreciate we need to move on.

Councilmember Knapp,

Thank you very much Mr. Berliner. Just a quick question and I think the Chair outlined this in her remarks. We are not in agreement with Prince George's County if we approve what's in front of us.

Councilmember Floreen,

Right. That's right.

Councilmember Knapp,

At the end of the day, we're going to have to be somewhere near each other. And so what is the process, how will a higher number coming from Montgomery County be weighted with a lower number approved from Prince George's County as the Commission continues its deliberation over the course of the next couple months?

Andy Brunhart,

The Commission, number one, has been on pause, appropriately so, waiting for the guides from the two Counties as they do every year. With your guide, believably today, the Commission has the two guides from the two Counties as they take their full briefing in December. Then the Commissioners will adopt for public hearing. We still need to work through, with our three prince George's Commissioners and then our three Montgomery Commissioners working with our Councils and me as well, including the County Executive's staffs, et cetera, to see if we can, what harmony we can reach, if we can by the May timeframe. We've had not small past experience with this over the course of the last two or three years in these dialogues. And so it will be the same road this year.

Councilmember Knapp,

And on the front page, we have kind of three areas of recommended funding and so I guess the question is, are these the only kind of levers that we can pull kind of to Mr.
Elrich's questions or are there other potential mechanisms that may be out there that we can look at as we try to strike that balance between Prince George's and Montgomery County? Are these the only, is what you've identified the only way that we can identify



the revenue for WSSC in order to proceed or are there potential other alternatives that may exist?

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- 4 Andy Brunhart,
- 5 There are other alternatives that no one is enthusiastic about.

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- 7 Councilmember Knapp,
- 8 Okay.

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- 10 Andy Brunhart,
- 11 It doesn't change the first one, the ultimate source of the money. As you know, in statute
- 12 WSSC does have tax authority. One tool could be to just levy a tax which the Counties
- would therefore collect. Nobody is even discussing that option or is enthusiastic about
- that option. I want to be clear. What you asked, is there a option. The other option.

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- 16 Councilmember Floreen,
- 17 We have never had this conversation in Committee.

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- 19 Councilmember Knapp,
- 20 You haven't?

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- 22 Andy Brunhart,
- 23 No.

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- 25 Councilmember Floreen,
- Not on the taxes. The other option, in my view is not going to happen. It happened in
- decades past, but not today's fiscal environment. And that is, a small portion of my
- industry, the water industry feels there is going to be a federal bailout. My view is there
- is not going to be a nationwide federal bailout with the other bills we have in the nation.
- 30
- 31 Councilmember Knapp,
- 32 That's quite a game of chicken to play.

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- 34 Andy Brunhart,
- Yes, particularly when the, we know the state of the infrastructure right now.

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- 37 Councilmember Knapp.
- 38 Right. Okay. I see no further questions. We have a committee recommendation in front
- of us. All in favor of the Resolution to establish FY09 Spending Control Limits for
- 40 WSSC? All in favor? That is unanimous among those present. Thank you very much.

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- 42 Andy Brunhart,
- Thank you for your time. Madam Chair.



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1 Adrienne Mandel, 2 Mr. President? 3 4 Councilmember Knapp, 5 Madam Chair. 6 7 Adrienne Mandel. 8 On behalf of the Montgomery County Commissioners, I do thank you for the support 9 that you are giving to your Commissioners to move forward with this guideline and we 10 will keep your concerns in mind as we address this issue at our December meeting and of course we'll continue our dialogue taking into consideration all the concerns 11 12 expressed not only by you but our shared constituents as well. So thank you for your 13 support and your interest in preserving this fine water and sewer system which we all 14 appreciate. 15 16 Councilmember Knapp, We wish you good luck in your negotiations in the coming months. 17 18 19 Andy Brunhart. 20 Could I beg your indulgence for 20 seconds? I just want to take this opportunity to 21 introduce to the Council the new Deputy General Manager for WSSC, Ms. Teresa 22 Daniel. 23 24 Councilmember Knapp, 25 Very good, welcome. 26 27 Councilmember Floreen, Welcome. 28 29 30 Councilmember Knapp, 31 Good luck. 32 33 Councilmember Floreen, 34 Yeah. 35 36 Councilmember Knapp, 37 Thank you very much. 38 39 Andy Brunhart, 40 Thank you. 41 42 Councilmember Knapp,

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This transcript has been prepared from television closed captioning and is not certified for its form or content. Please note that errors and/or omissions may have occurred.

Okay, at this point we're to turn to Legislative Session. We only have a, we have a Bill

for introduction and a Bill for final reading but since we are going to continue on



- 1 Legislative Session this afternoon at 1:45 after a public hearing, I'm going to propose
- that we move those two Bills to the afternoon session and that we adjourn right now, go
- 3 to recess right now and commence, reconvene with public hearing at 1:30 this
- 4 afternoon. And I just would make a note to my colleagues that during the public hearing,
- one of our items actually requires action so I would urge people to actually come back
- at 1:30. So with that, the Council stands in recess until 1:30 when we reconvene for a
- 7 public hearing. Thank you very much.



1 President Knapp,

- 2 This is a public hearing on the Spending Affordability Guidelines that the Council must
- set for the FY09 Operating Budget under Charter Section 305 and 2059 to 2063 of the 3
- 4 County Code. The guidelines must be based on affordability rather than need and may
- 5 be higher or lower than those considered at the public hearing. The guidelines establish
- a ceiling subject to a subsequent seven-vote Council override on the Aggregate 6
- 7 Operating Budget, recommending agency spending allocations and a ceiling on the
- 8 property tax revenues. The council may amend the guidelines in April 2008. A
- 9 Management and Fiscal Policy Committee work session is tentatively scheduled for
- 10 December 10, 2007; at 9:00 a.m. Persons wishing to submit additional comments
- 11 should do so by the close of business Wednesday. December 5th. 2007, so that your
- views can be included in the material, which staff will prepare for Council consideration. 12
- 13 Before beginning your presentation please state your name clearly for the record and
- 14 spell any unusual names. For this item we have two speakers, Royce Hanson,
- 15 Montgomery County Planning Board, Marvin Weinman, Montgomery County Taxpayer
- 16 League. Dr. Hanson, you're first.

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Dr. Hanson,

19 Mr. President, thank you very much. I'm Royce Hanson, Chairman of the Montgomery 20

County Planning Board. I'm joined by Bruce Crawford, who is our Budget Director for

the Maryland Capital Park and Planning Commission. Just a few points to make your

22 job so much easier as you set the spending affordability guidelines, and I'm going to

23 speak only to the condition of Park and Planning. In preparation of our budget we are

24 looking at, first of all, a budget that will tell you what it would take to maintain the current

25 effort and our personnel costs will be higher than in previous years. As you will recall a 26 number of new positions were added there aAppointments were lapsed by about 30%

27 as a result annualizing those new additions will raise the personnel component of the

28 budget. In addition to that, the normal maintenance compensation and benefit

29 increases, including the cost of living adjustment, the merit increases, the annualization

30 of these new positions in the current budget year, and inflationary growth and fringe

- benefit costs will add other factors. There are some additional growth factors that will be 31
- 32 involved in our budget and I think will probably be involved in other agency budgets. We 33 are in the second year of a five-year GASBE45 implementation which is a considerable
- chunk of change and also a 3% increase in our contribution to employee pension plans. 34
- 35 The result is that to maintain our normal level of service would be an increase in the
- 36 budget of about 6 to 8%. When you do this calculating the other factors that I've just



1 mentioned the Fiscal Year 09 maintenance level will represent an increase of about 10 2 to 12%. So if we were to -- if we were to enjoy the 8.6% reduction recommended 3 previously, our budget would drop from 98.4 million to 90 million, and the reduction 4 necessary from the maintenance level and the administration in Park fund budgets to 5 comply with the SAG limit would be in excess of \$20 million. The reduction of this magnitude, of course, won't be painless and its impact will be felt by all we serve. It will 6 7 have a really serious effect on recruitment efforts. The current budget lapse is 7.5%, as 8 you will recall. You had invited us to come back for supplemental if we were exceeding 9 that lapse. We are exceeding that lapse in both funds. The total number of positions 10 filled are exceeding the vacancies that are being created, and we are averaging about 11 2.5 new vacancies a month and four new hires a month. So we are building an 12 interesting problem for us and for you.

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President Knapp,

We look forward to having further discussions on this interesting problem as the months progress. Thank you, Dr. Hanson. Mr. Weinman.

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Mr. Weinman,

My name is Marvin Weinman, I'm President of the Montgomery County Taxpayer League. I've been a resident of Montgomery County for 45 years, and this is the most difficult budget situation I have ever seen. The Taxpayer League is a civic organization focusing on county government fiscal matters acting as an advocate for the general public. In this case reviewing the SAG and the fiscal plan for FY09 through 14. Fortunately the media has entered the picture and the public has been alerted by a monthly \(INAUDIBLE) editorial titled, "Sharing the Pain," identifying the budget situation to be as much as a spending problem as a revenue problem. We expect to see more coverage in the future. My testimony will focus on two charts providing focus on the lack of sustainability of the proposed FY09 budget identified in the yearly identified gap. If you can take a look at the first chart we will make it very simple. The 2009, the gap is 4.1 million. If you take it cumulatively over the six years it turns out to be \$4. 682 billion, which is a big gulp. If you take the 401 million and you project it that that is revenue that will be found in some way, then the 1.3% that you see in FY09 for the total resources will now become 12.24%. So I think there is clearly a problem in sustainability and we need to look into that. But going beyond that, the six-year gap is 122% greater than the FY08 total use budget. So when you look at the gap you realize that the budget is unsustainable. The most heard word today is everybody has a seat at the table. The table is full with 80 boards, committees and commissions with 1,200 identified individuals. Everyone comes to the table; most expect to come away with something. We can't fund all the wants until we take care of the critical needs. There is not enough money to please the whole general public. What is critical need? I think each Council person has a little different idea on what a critical need is, which makes it much more difficult. So that needs to get resolved. We can't be addressing 1-year budgets and impacting future years' budget problems with unsustainable spending in FY09. What the public needs is a viable dialogue with their elected officials on budget; something I



haven't seen in the six years I have served as President of the Taxpayer League. Town meetings are a [inaudible] to really talk about the budget but focus mostly on community service issues, such as sidewalks, trash collections and speed bumps. The Taxpayer League is the most knowledgeable -- one last -- most knowledgeable civic organization in the County fiscal matters. It is not been offered an opportunity to speak on behalf of the public and MFP Committee item in my term as president. The public needs to be education on fiscal matters let alone an open FY09 dialogue. Thank you.

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President Knapp,

9 10 Thank you, Mr. Weinman. There are no questions. This concludes this public hearing. Thank you very much. Good afternoon, ladies and gentlemen. This is a public hearing 11 on Zoning Text Amendment 07-15 which would amend the zoning ordinance to allow 12 signed permit fees to be waived or reduced for nonprofit organizations on the Planning 13 Boards list civic and home homeowner organizations, remove references to the content 14 15 of any sign that may have waived or reduced sign permit fees, and generally amend the 16 provision related to sign permit fees. Exhibits the copy Zoning Text Amendment 07-15 is 17 introduced, copy resolution establishing a public hearing date and time, prove advertisement in the Montgomery County Sentinel. Persons wishing to submit additional 18 19 comments should do so by the close of business on December 14th, 2007, so that your 20 views can be included in the material, which staff will prepare for Council consideration. 21 The PHED Committee work session will be scheduled at a later date and be made 22 available online. Please call 240-777-7900 for information. Before beginning your presentation please state your name and address clearly for the record and spell any 23 unusual names. We have four speakers. First we have Reggie Jetter on behalf of the 24 25 County Executive, Greg Ross with the Planning Board. Let's do Reggie and Greg, and 26 then we'll go to Wayne and Faize.

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Mr. Jetter.

28 29 Good afternoon. My name is Reggie Jetter and I'm speaking on behalf of the County 30 Executive, Isaiah Leggett, with concerns regarding the proposed Zoning Text 31 Amendment 07-15, Signs Permit Fees. The intent of the proposed Zoning Text 32 Amendment is to allow the Department of Permitting Services to waive or reduce sign 33 permit application fees for nonprofit organizations that are on the Planning Board's list of civic and homeowner associations. Currently there are 1,398 civic and homeowner 34 35 associations on the Planning Board's list of civic and homeowner associations. Assuming the 1,398 civic associations are nonprofit, sign permit fees would be reduced 36 37 or waived for these associations. This waiver or reduction would be in addition to the 38 existing waiver reduction for 501C3 nonprofits for which fees are currently waived or 39 reduced. DPS issues an average of 609 sign permits per year, 45 limited-duration sign 40 permits per year, and 46 sign permits per year. Assuming 10% of the sign permits were 41 issued to nonprofit organizations and the entire fee is waived, DPS would waive 42 \$16,000.00 per year. From a public policy perspective, the proposed ZTA makes sense 43 to provide assistance to nonprofits. The proposed ZTA is consistent with the purpose of 44 the zoning ordinance, which states: "the purpose of this article is to regulate the size,



1 location, height and construction of all signs placed for public view. The regulations are 2 intended to protect safety, health, morals, comfort and welfare to preserve the value of 3 the property, to preserve and strengthen the ambiance and character of the various 4 communities and where applicable, to implement the recommendations of an urban 5 renewal plan adopted into Chapter 56." However, the proposed ZTA may present some immediate and long-term unintended consequences. Civic and homeowner associations 6 7 typically apply for a sign permit for neighborhood identification signs to be placed in the 8 right-of-way. The proposed ZTA would encourage more signs in the right-of-way and 9 therefore potentially creating visual blight and vehicular traffic safety concerns. Also, 10 DPS was established as an enterprise fund which is to be self-supporting. Waiving fees for nonprofit agencies would reduce the revenues received by DPS. The Executive 11 Branch testified on ZTA 05-13 in November 2005 stating that waiving fees for nonprofit 12 agencies would reduce the revenues received by DPS and set a precedent that defeats 13 the premise of an enterprise fund. The approval of this ZTA and similar waivers weaken 14 15 the self-supporting requirement of the enterprise fund and require DPS to offset the loss 16 of fees either by increasing other fees or through a transfer from the General Fund. If

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President Knapp,

20 Thank you very much. Mr. Russ?

you have any questions I'd be happy to answer them.

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Mr. Russ,

Thank you, Mr. President. For the record, Greg Russ from the Montgomery County Planning Board. The Montgomery County Planning Board reviewed Zoning Text Amendment number 07-15 at its regular meeting on November 29, 2007. The Board unanimously recommends approval of the text amendment as introduced. The text amendment proposes to amend the zoning ordinance to allow permit fees to be waived or reduced for nonprofit organizations on the Planning Board's list of civic and homeowner organizations and to remove references to the content of any sign that may have waived or reduced sign permit fees. The Board has no objection to the proposed waiver provision since most civic and homeowner associations operate in a not-for-profit status. The Board further recommends approval to he ZTA proposal to remove any reference to the content of any sign consistent with County and Federal policy protecting an individual's right to freedom of speech. As such, signs may be regulated only by the time of display, the place where it may be displayed, and the manner or types of signs that may be used to convey a message. Thank you.

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President Knapp,

- Thank you very much. There are no questions. This concludes this panel. Our next two
- 40 speakers are Wayne Goldstein, Montgomery County Civic Federation, and Faize
- 41 Nabavian, Rock Creek Palisades Citizens Association. Mr. Goldstein?

42 43

Mr. Goldstein,



- 1 I'm Wayne Goldstein, President of the Montgomery County Civic Federation, MCCF,
- 2 speaking in support of ZTA 07-15 concerning sign fees. First, I would like to
- 3 congratulate Council President Michael Knapp, Council Vice President Phil Andrews, for
- 4 your ascension to these new responsibilities. I would like to welcome back
- 5 Councilmember George Leventhal, and I'd also like to wish a get well soon to
- Councilmember Marilyn Praisner, and looking forward to her returning to this body as 6
- 7 soon as possible. I would like to thank Councilmember Nancy Floreen and her
- 8 confidential aide, Merle Steiner, for responding so quickly to MCCF's initial letter on the
- 9 issue and working with our member organization for the Rock Creek Palisades Citizen's
- Association, which brought this issue to MCCF earlier this year. I'd also like to thank 10
- Council President Marilyn Praisner and Councilmember Valerie Ervin for their support 11
- 12 as cosponsors as well. This ZTA is a second effort to make it possible for civic and
- 13 homeowner associations to be able to afford to install signs that identify their
- 14 communities. Those associations which desire such signage are demonstrating pride in
- 15 their neighborhoods and want others to know where they are. I believe that making it
- 16 more affordable will allow more of these signs to be installed, and the ripple effect will
- be that many more neighborhoods will also want to have such signs of their own. I don't 17
- see this as visual clutter. This could also help visitors to find their way around as more 18
- 19 and more residents identify themselves through their communities rather than just by
- 20 their streets. I'm also President of the Kensington Heights Citizen's Association, KHCA,
- 21 and our immediate past president worked long and hard to get our signs paid for and
- 22 installed. KHCA was fortunate enough to get a county grant to purchase these signs but
- 23 then had to give back half of that grant to the County to pay for the sign fees, which
- meant that we were far more limited as to what the signs could be and what 24
- 25 landscaping we could install around the signs. Despite that we are proud of our signs,
- regularly maintaining the areas around them even replacing part of one sign when it 26
- 27 was vandalized. I believe that this is easy for all Councilmembers to support. What
- might make it hard is if the bureaucrats who administer this program throw up
- 28
- 29 roadblocks, and perhaps that's what they were doing in their testimony. This is why we
- 30 had to come back to you a second time to re-clarify it, and we hope we won't have to
- 31 come back a third time to re-clarify it. I don't believe that at this time there is much
- 32 revenue coming from these sorts of signs because no civic association can afford them.
- 33 So there will be little loss of revenue and simply a little more paperwork for Department
- 34 of Permitting Services should you approve this. Thank you very much.

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- President Knapp,
- 37 Thank you very much. Ms. Nabavian.

39 Ms. Nabavian.

- 40 Good afternoon. My name is Faize Nabavian. I'm the President of Rock Creek
- 41 Palisades Citizen's Association which represents over 1700 residents in Kensington and
- 42 Wheaton. We are a nonprofit corporation under Maryland law. I thank you for the
- 43 opportunity to comment on Zoning Text Amendment -07-15. My association strongly
- 44 supports this amendment and urges its passage. We wish to thank Council President



1 Praisner and wish her also a speedy recovery; and Councilmembers Floreen and Ervin 2 for sponsoring the amendment. The amendment would remove the sole obstacle that 3 has prevented our association from moving forward with its plans to install four 4 neighborhood signs. When I say neighborhood signs I mean signs that simply identify 5 communities within our association and which contain no commercial material. More than a year ago our association voted to pay for and install four neighborhood signs, but 6 7 we have not been able to go ahead with this project because we cannot afford the 8 \$2500 in County permitting and application fees that would be required. This \$2500 in 9 sign fees is more than twice the cost of the signs. We do not qualify for a waiver of the 10 sign fees under the current law and regulations because we are not exempt from federal income tax under the Section 501(c)(3) of the United States Internal Revenue Code. 11 12 The current county regulations that govern sign fee waivers require waiver applicants to 13 present a 501(c)(3) certificate. This certificate must be obtained from the IRS. Obtaining 14 proof from the IRS that an organization is tax exempt is an expensive and lengthy 15 process. We estimate that it would cost our association \$15,000 in attorney and filing 16 fees to obtain a certificate from the IRS that we are tax exempt. We simply do not have the funds to obtain a tax-exempt certificate. We believe this requirement is an 17 unreasonable burden to place on civic associations. Earlier this year we approached the 18 19 Montgomery County Civic Federation about this problem. The Civic Federation wrote a 20 letter to Council and County executives urging a change in the law and regulations 21 governing sign fee waivers. We wish to thank the Federation for its support. The 22 proposed ZTA will remove the [inaudible] obstacle that has prevented our association 23 from obtaining a waiver of the sign fees. It eliminates the requirement that an applicant present proof of its tax-exempt status so long as the applicant is on the Planning 24 25 Board's list of civic and homeowner associations. We think this is a sensible and 26 reasonable solution. In some the Rock Creek Palisades Citizen's Association strongly 27 supports this proposed ZTA. Thank you.

28 29

- President Knapp,
- 30 Thank you very much. There are no questions. This concludes this public hearing. Good 31 afternoon, ladies and gentlemen. This is a public hearing on a Supplemental 32 Appropriation to the FY08 Operating Budget Arts and Humanities Council, Non-33 Departmental Account in the amount of \$200,000 for the newly designated 34 advancement grants program to be administered by the Arts and Humanities Council of 35 Montgomery County. Action is scheduled following the hearing. Before beginning your presentation please state your name clearly for the record and spell any unusual 36 37 names. There are no speakers for this hearing. I will now turn to our Lead for Arts and 38 Humanities; Mr. Berliner.

- Councilmember Berliner,
- Thank you, Council President. This supplemental appropriation item was something that
- 42 I had requested the County Executive to forward to us after consultation with the arts
- community. The arts community had requested, I believe, something on the order of
- \$500,000 originally with respect to these types of grants, and these are grants that were



1 designed really for some of our larger arts organizations who are suffering through various transition difficulties. An example of which would be where they are moving into 2 3 a new facility and that that facility took longer to construct than they had anticipated 4 often for reasons totally beyond their control and therefore their budgets were severely 5 impacted by a loss of operating revenue. I had requested this early in the fall in a slightly different budget climate than that which exists today. After conferring with my 6 7 colleagues I'm going to suggest that we defer action on this item. I believe as a member 8 of the MFP Committee, I appreciate the concerns that my colleagues have expressed to 9 me with respect to acting on this particular supplemental appropriation request in the 10 absence of having a larger understanding of how we are going to address supplemental appropriation requests more broadly. That is a significant part of the short-term budget 11 12 actions that we are going to be contemplating over the next several months, and to act 13 on this one in advance of that larger understanding has made some of my colleagues uncomfortable, and I see the wisdom of that. So I will, with the indulgence of my 14

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President Knapp,

I see no objection and I think that's a very wise choice. And we will look at this as we've suggested to the County Executive that as he puts his list of recommendations as soon as possible to us, we will take this up in the context of that broader list whenever it gets here. Thank you, Mr. Berliner.

21 22 23

Councilmember Berliner,

Thank you, Council President.

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26 President Knapp,

Okay that concludes our public hearings. We now return to legislative session. We will pick up where we left off this morning. Madam Clerk, do you have the legislative journal?

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31 Council Clerk,

32 Yes, you have the journals of November 13th and 20th for approval.

colleagues, I would request we defer action for another day.

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- 34 Councilmember Trachtenberg,
- 35 So moved.

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- 37 President Knapp,
- 38 Moved by Councilmember Trachtenberg. Is there a second?

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- 40 Councilmember Andrews,
- 41 Second.

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43 President Knapp,



- 1 Seconded by Council Vice President Andrews. All in favor? That is unanimous among
- those present. Thank you. We now turn to Introduction of Bills. We have Bill 36-07,
- 3 Development Districts Amendments, sponsored by Councilmember Trachtenberg. A
- 4 public hearing is scheduled for January 15th at 7:30 p.m. Councilmember Trachtenberg.

5

- 6 Councilmember Trachtenberg,
- 7 Thank you, President Knapp. I am introducing this legislation today and in effect what
- 8 this Bill would do, it would amend the County Code to specify vigorous public disclosure
- 9 of any proposed special assessment tax fee or other charge, and in addition it would
- direct the Council to hold two public hearings on proposed development districts. I see
- this Bill as one of several steps that will be necessary to reform the process relating to
- development districts. Again, those steps I'm sure to be determined by this body and
- discussed over the course of the next year or two. But I do see this as a first step and I
- see this as a constructive exercise in helping us to define not only improvements in the
- process but obviously the real objectives of the policy. So I look forward to public
- discussion that we will have on this Bill.

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- 18 President Knapp,
- 19 Thank you very much. We now turn to the Call of Bills for final reading. We have before
- us Expedited Bill 27-07, Personnel Retirement, Investment Authority, and I turn to the
- 21 Chair of the MFP Committee.

22

- 23 Councilmember Trachtenberg,
- 24 Thank you, President Knapp. Bill 27-07 would amend the employee's retirement system
- 25 and retirement savings plan to conform to the principles governing the investment and
- 26 management of funds contained in the uniformed management of Public Employee
- 27 Retirement Systems Act, PERSA, and the Federal Pension Protection Act of 2006.
- There is a committee recommendation of 2-0, again Councilmember Praisner absent.
- 29 So there is a unanimous committee recommendation to support this Bill at this time.

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- 31 President Knapp,
- 32 Thank you very much. Councilmember Floreen.

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- 34 Councilmember Floreen.
- I have a question. We had -- apparently some issues were raised about this Bill in terms
- 36 of its --.

37

- 38 Councilmember Trachtenberg,
- No, actually, I think what you're referring to is the OPEP Trust -- the formation of the
- 40 trust, not specific to this legislation.

41

- 42 Councilmember Floreen,
- 43 Okay. Okay.



1 President Knapp, 2 I see no further questions. We have a committee recommendation before us. We need 3 six votes for passage and so I turn to the clerk to call the roll. 4 5 Council Clerk, 6 Mr. Elrich? 7 8 Councilmember Elrich, 9 Yes. 10 Council Clerk, 11 Ms. Floreen? 12 13 14 Councilmember Floreen, 15 Yes. 16 Council Clerk, 17 Ms. Trachtenberg? 18 19 20 Councilmember Trachtenberg, 21 Yes. 22 23 Council Clerk, Mr. Leventhal? 24 25 26 Councilmember Leventhal, 27 Yes. 28 29 Council Clerk, Mr. Berliner? 30 31 32 Councilmember Berliner, 33 Yes. 34 Council Clerk. 35 Mr. Andrews? 36 37 38 Councilmember Andrews, 39 Yes. 40 41 Council Clerk, 42 Mr. Knapp? 43 44 President Knapp,



1 Yes. The Expedited Bill, Bill 27-07, carries. We now turn to Bill 37-06, the Property Tax 2

Credit Green Buildings. I turn it back over to the Chair of the [Management and Fiscal

3 Policy Committee.

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Councilmember Trachtenberg,

Thank you, President Knapp. Again, we have a committee recommendation 2-0 with 6

Councilmember Praisner absent again to support Bill 37-06 but adopt it with

amendments. Rather than go through the entire length of the bill, what I will try to do just

quickly because there are a lot of complicated aspects of this, go through some of the

10 issues that were raised. I would note that this Bill was introduced back in September of

2006 and that indeed there have been three work sessions on this Bill starting last

January when I arrived in town and the most recent meeting was on November 19th, 12

and at that time we were joined by Councilmember Floreen, who was the lead sponsor

on this legislation. And so the issues to take into account are relating to one that we're

advised fiscal impact statement, which is on page 3. It's a nice table outlined by staff.

16 This again was something that we had asked for several times and in essence, the

projected revenue losses outlined is pretty much a worse-case scenario and is based

on the assumption that 100% of new buildings would be eligible for the property tax 18

credit. There is a committee recommendation that the original language of the Bill be

20 amended to make buildings that are rated under the LEEDCS system eligible for the

21 same property tax credits as buildings that are rated under the LEED and C system.

22 Again, we're using the Howard County model. That was pretty much the conclusion of

23 the committee. There was also an amendment to the original language, which included

24 an annual cap on the total amount of credits. The committee recommendation was to

25 use a 5 million cap -- dollar cap. There was also a recommendation by our committee

that we delete any references to the Maryland Green Buildings Council at this time and 26

27 substitute language that makes a building eligible for the property tax credit if it achieves

an energy and environmental design standard that the director of the Department of 28

29 Permitting Services finds is equivalent to the LEED silver level rating. And there was

30 also a recommendation by our committee that we repeal the language in the original Bill

concerning the retroactivity provision. So those are the amendments and the changes

32 that were provided by committee recommendation.

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President Knapp,

35 Great. Thank you very much. Councilmember Berliner.

36 37

Councilmember Berliner.

38 Thank you, Council President Knapp. And I want to commend my colleague,

39 Councilmember Floreen as well as Councilmember Leventhal, again for their leadership

40 with respect to promoting this issue, which is to provide tax credits for people to go

41 beyond that which we have otherwise required them to do. The work of the committee

42 really was focused on, if you will, taking this up another notch. Such that what we

43 concluded was after the excellent analysis by staff was that having adopted the LEED

44 certification requirement that to provide a tax credit for silver buildings was no longer



appropriate. So what we have done for the most part is say let's put our taxpayers' dollars where they can get the greatest bang for their buck and put it on gold and put it on platinum. So we raised the bar, if you will, with respect to what we will support from a tax credit perspective, and we also made a decision that with respect to that \$5 million that we would try and allocate those dollars in a way that would ensure that as many dollars as possible go to platinum and gold as opposed to silver. So we want to in each step of this process incentivize and reward developers who come forth with really the state of the art. And I think that these working with the sponsor, I think we came up with a good package that really will advance our interests.

2 3

- President Knapp,
- 12 Councilmember Elrich?

- Councilmember Elrich,
- I'm going to support this but I want to express a couple of variables of reluctance that I have about the Bill. One is I don't believe in giving tax credits for things where we have to go anyway. I feel very strongly that the kind of standards that are embodied in gold and above are where we're going to have to be building. And we have to be building that because of the environmental concerns, not because of tax credits. And I think we should -- we need to get to the point where this is what we require as a matter of how business is done and that we don't have to incentivize people to do what I think needs to be done. So that's probably my major level of concern with this I appreciate the strengthening of the Bill in that regard in terms of at least the effort to try to focus it on higher levels of achievement. The other thing I point out is what's missing from LEED, and I think we need to really address and unify is some kind of energy efficiency standards. And I hope that we will take some time to come back to our LEED standards in the future and look at a way of incorporating energy efficiency in terms of what we require and expect out of buildings in the future.

- President Knapp,
- 31 Okay. Councilmember Floreen?

- Councilmember Floreen,
- I want to say thank you to the MFP Committee for addressing this issue. I do think that at a certain point you have to add a few carrots to the mix of regulatory requirements to get us where we need to go, and I'm glad that my property tax credit that George and Mike were sponsors of back many, many years ago it seems, addresses this, because I do think we will continue to push the limit on community expectation, but I do think we also have to also encourage people and have folks appreciate the positive benefit of all of this. I would ask that we keep track of how we are doing in this category, Mr. Faden. Maybe we can make a note to self to check how we are doing on an annual basis to make sure that we are seeing some benefits.

Mr. Faden,



1 We will make sure the Executive Branch gives us that information.

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Councilmember Floreen,

I think there is one gold building under construction within the city of Rockville right now. I'm not sure what others are out there. Pardon me? But I do think this is an important initiative that we need to encourage. And I think that the math that the committee looked at was that this would be a positive incentive. And I just want to make sure that it really is. So if we can take a look at how this is operating over time. It certainly goes farther than where we had proposed a year and a half ago, but at least it gets us moving, and I'm delighted that we are moving.

10 11

12 President Knapp,

13 Thank you.

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15 Ms. Boucher,

16 I'm sorry. When you're done, there was just one issue I wanted to clarify.

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President Knapp,

19 Councilmember Leventhal.

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Councilmember Leventhal,

Well I think I would recommend the Montgomery County Council's work on the green buildings issue to some promising graduate student as a case study in how the legislative process lags behind generally, because when I started getting myself very educated on the green buildings issue there were not a lot of people in this building or in COG or in the building industry in Montgomery County who knew what LEED stood for what it meant. And the knowledge has just come cascading in the space of 18 to 24 months. I mean there's just been, you know -- so, I think the MFP Committee has done a very good job of adding different types of LEED, making a higher standard eligible. I had said initially when I first introduced the green buildings mandate that we were trying to keep pace with a very rapidly changing state of the industry, and the first green buildings mandate Bill that I introduced was substantially weaker than the ultimate Bill that the T&E Committee reported in that this Council passed about a year ago now. And now we hear calls from colleagues, which I have no disagreement with, that it ought to be even stronger and we ought to include more things in it, this whole set of issues is developing and people's knowledge and understanding of the field is developing very, very rapidly. At the same time, I think we have to be aware of the multitude of requirements that we are imposing on the private owners of private buildings who also have a lag; who have to design these buildings and bring them on line. It takes years to design, it takes years to build. And so we earlier this morning adopted regulations on the mandate for green buildings which requires that private sectors buildings must be at least LEED certified, and as the committee chair pointed out when she spoke this morning that goes into effect in September of 2008. Okay. That's many months from

now. But the time it takes to design and build a building, the buildings that will be



- 1 affected have already been designed, much of the work has already been done, the major investments have already made. And so we have to acknowledge a lag here. We 2 3 have to acknowledge a lag in our own understanding of the issues, we have to 4 acknowledge a lag in our own ability to cope, to move things rapidly through the 5 legislative process at the time this Bill was introduced, it was a long time ago, and the committee strengthened it, and I acknowledge and recognize what the committee has 6 7 done. I'm happy to support It. But we're stepping into a rapidly changing field, and we 8 have to also be able to step back and not just impose a blizzard of new requirements on 9 people who themselves need years to bring their plans online and to understand what it 10 is that government requires. So I just urge, you know, thoughtful -- a thoughtful pace on these issues; understanding that the industry is changing, the state of knowledge of the
- these issues; understanding that the industry is changing, the state of knowledge of the field is changing; but even as these things change rapidly, these buildings take a long time to invest and design and build, and the people who invest and design and build
- them, who, you know, we want to do good things and to encourage and incentivize
- good things -- need some time. We can't just constantly be changing and imposing a blizzard of new requirements all the time or no one will be able to comply. It won't -- it

will be dysfunctional.

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19 President Knapp,

Thank you, Mr. Leventhal. Ms. Boucher?

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- Ms. Boucher,
- I just wanted to mention -- Councilmember Trachtenberg mentioned that the Bill has a retroactivity provision. It's actually on Circle 79 of the packet that would allow buildings that are certified before the Bill takes effect to take advantage of the credit. And so Council staff has recommended repealing that language. It occurs to me in listening to the conversation that Council -- we should have also recommended some substitute language that clarifies which buildings you want this tax credit to apply to. One option would be that the credit be available to any building that certified as a high-performance building after the Bill takes effect. I don't know if that's consistent with intent, but it really needs substitute language to clarify which buildings it applies to.

31 32 33

- Councilmember Trachtenberg.
- I think that sounds like a reasonable way to deal with that. I would agree with you that that was something that was overlooked in committee discussion. So I would support that.

37

- 38 President Knapp,
- Any other committee members that support it as a committee recommendation?

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- 41 Councilmember Trachtenberg,
- Yes, so why don't we amend our recommendation to reflect the recommendation provided by staff.



1 President Knapp,

Okay. Any objections? So amended. Mr. Berliner.

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Councilmember Berliner,

I wanted to respond briefly to the comment of colleagues. One, with respect to the issue of sticks versus carrots: I actually agree with Councilmember Floreen that we do need some carrots in addition to our regulatory sticks, but I also agree with my colleague, Councilmember Elrich, with respect to raising the bar, if you will, which is why we made the decision not to have it applicable to silver because I felt like even in light of Councilmember Leventhal's observation that that's really where we're going to. And if we were to do that Bill again we probably would have set it at silver as opposed to at simply LEED certified. But I would also recommend to my colleague on the PHED Committee that he explore the obligations of developers under the optional method. Because when I look at optional method and the benefits that developers get with respect to that, I ask myself whether or not gold or platinum shouldn't be required in return for the benefits associated with that. So I do think there are other ways to incentivize, other ways to use a lot of the regulatory tools at our disposal. And I would also say that with respect to the LEED and the energy conservation piece of it that it has gotten better. It was a failing initially and now it is better. It isn't where it should be. But we have legislation that a number of us have cosponsored that will require all new buildings in Montgomery County to be Energy Star certificated, and Energy Star is the energy conservation piece. It would be an overlay on top of our LEED certification for commercial, and it would be a requirement for all residential. And we will be having a public hearing with respect to that Bill and others on January 17th. But we are -- do have the opportunity to significantly strengthen that piece, which is the energy conservation piece, because LEED as you observe, and as I know my colleagues appreciate, really is a larger green piece. It's about the environment generally and doesn't highlight energy conservation in and of itself as its objective. So I think there are a number of steps that we are going to be taking, and certainly looking at the question of when to superimpose that requirement in light of LEED certification lagging it to overlay it in a way that the business community can absorb will be part of the

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President Knapp,

35 Mr. Leventhal. 36

Councilmember Leventhal.

Well I guess in defense of what this Council has already done, I would just point out you could make the same point about water conservation or about recycled materials or any other piece of LEED. I mean LEED is developed by the Green Building's Council, which is a nonprofit organization, which draws heavily on knowledge from the field in terms of what is practical and feasible in terms of building real buildings. You could find any LEED platinum building and say you well you could have done more. But at some point we also are not able to entirely just make things up out of whole cloth; we are relying

conversation we will be having. Thank you, Council President.



1 upon what the U.S. Green Building's Council has done because it is the recognized 2 leader in the field, and it does incorporate the input of practitioners, and it is an evolving 3 standard that does take into account new knowledge. And so I guess I'm, again, I would 4 just urge a thoughtful approach to this whole issue. We could impose all kinds of new 5 mandates at any given time, but we also have to acknowledge what already exists and we have to acknowledge some limits in the capacity to legislate. Not everything is going 6 7 to be addressed through legislation. And not everything is going to be feasible to do in 8 one county. So the model that we adopted was we were drawing upon a lot of 9 knowledge and a lot of work that had been done at the national level drawing upon 10 practitioners in the field. The more we say well we think we can do it better in Montgomery County, the more we got to add resources here in Montgomery County. 11 12 We just pulled this art special appropriation off the table because we thought well hold 13 on; it would be nice to do, but you know we can't do it all. So sometimes you do have to 14 draw upon existing knowledge from other sources. If we want to come up with brand 15 new standards all on our own because we think we can do better, that's fine. It's going 16 to cost money; it's going to require staff. So we've got to keep that in mind as well.

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President Knapp,

Round two; Mr. Elrich? This was the easy bill, by the way.

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Councilmember Elrich,

This is the one that goes through with no comment. I just have to say, I mean, everything that has been done in this country in the last 40 years, whether it is cleaning up the air, cleaning up the water, reducing auto emissions, has come over the objections of whatever industry was affected by it. Every single time people tried to say we need to do a better job and make things different and we can do better, the industry said it can't be done, go slow, take your time; all this is unproven. Who knows when this is going to happen. And I understand that the building industry will come back and say this is difficult, we need lots of time. I frankly don't think that we've got lots of time to deal with these issues. I think our timeframe -- and near as I can tell from what scientists are saying -- our timeframe in dealing with this stuff is short, not long. And yes, this isn't the country, and no, we are not making national legislation; but to the extent that we have got the ability to do something more and the extent that there is actually a foundation for it, I'm not asking or expecting people to do unproven technologies. I certainly don't want Council staff doing investigations of 20 secondcentury building techniques that can be applied today. I do think there are standards we can try to aspire to. And I would like to see us push the envelope. I think we have to push the envelope. And I understand it may be difficult for the industry to swallow some of that but they are going to have to because we don't have a choice about where we are going.

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President Knapp,

Management and Fiscal Policy Committee Chair Trachtenberg.



- 1 Councilmember Trachtenberg,
- 2 Thank you. Just a brief comment which is we did have, as I stated earlier, several
- 3 conversations about this, and if I'm recalling correctly during the last work session, one
- 4 of the issues that was raised was, really, a summary of a great deal of what's been
- 5 shared by colleagues here this afternoon. And what we, I think, decided within the
- 6 committee discussion was that this was really a work in progress and this was a good
- 7 first step to get us where we needed to go and to provide the carrot that Ms. Floreen
- 8 suggests might be necessary. And it was even discussed the potential of having a
- 9 conversation, a very comprehensive one about green building standards and doing that
- perhaps after we had some indication of how effective the tax credit was -- if we were
- getting what we were looking to get, if we were achieving anything with it. So down the
- 12 road I would just suggest to colleagues that there be ample opportunity to have what I
- would consider to be a more constructive dialogue about it, because again as
- 14 Councilmember Leventhal indicates it is policy being defined moment to moment.

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- 16 President Knapp,
- 17 Councilmember Floreen.

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- Councilmember Floreen,
- Well, as I said earlier this morning to our new director of Environmental Protection, he is going to need a desk over here because we are going to need his help, and I do think we will be able to benefit from his sense of what is practicable as well as what's doable
- 23 as we work through this. And Linda Lauer, I -- make sure we have enough T&E
- 24 Committee meetings to address this.

25

- 26 Councilmember Trachtenberg,
- 27 How about two a week?

- 29 President Knapp,
- No the Transportation and Environment Committee is going to be very busy this coming year. I appreciate the comments of all my colleagues and I was going to say as well with
- 32 a new head of the Department of Environmental Protection that I think it's going to be
- important that at some point in the coming year to really get that assessment of what we
- have we done, what are we doing, and then what do we think we can do in the future.
- 35 Because I think there are a lot of moving parts with what we have done with the Growth
- Policy, what we've done now with these incentives, what we've done with the green
- buildings, with what has been introduced last week with our various global climate
- change initiatives all well-intentioned worthwhile activities, the challenge is at what point
- 39 do we give people a chance to catch up to everything that we have done and get ready
- 40 to take the next steps we need to take. And so I think those are fair points, and I agree
- with Ms. Floreen that our new head of DEP is going to spend a lot of time in front of us
- 42 or at least her committee. So with that I see no more questions or comments. And so
- we, as they roll call a vote. Property tax credit we have a committee recommendation in
- front of us so we don't need a motion, so Madam Clerk, if you would call the roll.



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2	Council Clerk,
3	Ms. Ervin?
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5	Councilmember Ervin,
6	Yes.
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8	Council Clerk,
9	Mr. Elrich?
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11	Councilmember Elrich,
12	Yes.
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14	Council Clerk,
15	Ms. Floreen.?
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17	Councilmember Floreen,
18	Yes.
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20	Council Clerk,
21	Ms. Trachtenberg?
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23	Councilmember Trachtenberg,
24	Yes.
25	Council Clerk,
26	Mr. Leventhal?
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28	Councilmember Leventhal,
29	Yes.
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31	Council Clerk,
32	Mr. Berliner?
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34	Councilmember Berliner,
35	Yes.
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37	Council Clerk,
38	Mr. Knapp?
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40	President Knapp,
41	Yes. Motion carries.
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43	Council Clerk,
44	Mr. Andrews?



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- Councilmember Andrews,
- 3 Yes.

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- 5 President Knapp,
- Motion carries 8-0. We're now going to do a flip-flop here. We're going to change Bill 6
- 7 24-07 and address the real property -- property tax disclosure first, and then we'll turn to
- 8 Bill 43-05, the Weapons Restriction Deer Management Bill. And I think everyone is here
- 9 that needs to be here to do that. We have staff. And I will turn the [inaudible] over to the
- 10 Chair of the Management of Fiscal Policy Committee, Councilmember Trachtenberg.

11

- 12 Councilmember Trachtenberg,
- 13 Thank you, President Knapp. A very busy afternoon for MFP and an indication of how
- busy we have been in committee. This afternoon I am providing a recommendation from 14
- 15 the Management and Fiscal Policy Committee to advance Bill 24-07 with three
- 16 amendments in particular. One which would clarify what information must be included in
- the tax disclosure and when the tax disclosure must be updated. The second 17
- amendment, which we approved, would be to limit a seller's liability for any incorrect 18
- 19 information in the disclosure if the seller is relying primarily on information provided by
- 20 the County. And we would also make the recommendation to set the effective date in
- 21 the Bill for April 1, 2008. So there is a committee recommendation 2-0 with
- 22 Councilmember Praisner absent to support passage of Bill 27-7.

23

- 24 President Knapp,
- 25 Okay. Thank you very much. Are there any comments? Councilmember Floreen.

26

- 27 Councilmember Floreen.
- Yes, I had some concerns when this Bill was first introduced because I wasn't exactly 28
- 29 sure how you do it. And not that it isn't a good idea for purchasers to know what they're
- 30 getting into, but that it has to be doable and in a way that is understandable. We have
- 31 gotten quite a few emails and a number of comments from the public that is --
- 32 particularly with the folks out there -- you are probably the ones -- who have commented
- 33 on the real-life concerns that they have and the concerns of interpretation liability and all
- 34 that sort of thing. And forgive me, I sold my two houses by myself. Forgive me, I feel
- 35 your pain.

36

- 37 President Knapp,
- 38 I don't hear hissing yet.

- 40 Councilmember Floreen,
- 41 I got over that. Bad idea. Absolutely. So I had a couple of language changes that I think
- would help in this regard. And one is on the back, Councilmember Ervin and I had some 42
- 43 concerns, and staff memo alludes to this. To confirm what everyone has said in
- 44 committee that the Office of Consumer Protection would be the vehicle for -- as a



- resource to the community. So some of us are better at math than others of us; some of
- 2 us -- my office has filled out the -- I made them all do the spreadsheet and get their
- 3 numbers confirmed by Finance and they did. And so I'm comfortable that this is doable,
- 4 but I do think we have to be clear about the environment in which this is to be
- 5 conducted and to make it clear that there is a resource available. So we propose a
- 6 language there that is shown on circle 30 that would add language indicating that the
- 7 Office of -- last page -- Office of Consumer Protection must assist a seller in estimating
- 8 the information required under subsection A. And that would essentially just confirm in
- 9 language what everyone has said and intent in committee that there would be a way to -
- 10 a reliable source of a spreadsheet and follow up if there is a problem, so people can
- do what this legislation intends, which is to offer some predictability to the process. So I
- would move that change.

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- 14 President Knapp,
- 15 Is there a second?

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- 17 Councilmember Andrews,
- 18 I'll second it.

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- 20 President Knapp,
- 21 Councilmember Andrews -- Council Vice President Andrews sponsor of the Bill. So we
- have before us an amendment that is contained in Circle 30 of the packet.

23

- 24 Councilmember Floreen.
- 25 And I have another one too after.

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- 27 President Knapp,
- 28 Are there any comments or questions on that amendment? Okay.

29

- 30 Councilmember Andrews,
- 31 I think that's amendment from Councilmember Ervin as well?

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- 33 Councilmember Floreen,
- 34 Yeah.

35

- 36 Councilmember Ervin,
- I don't have anything to say yet but I will [inaudible].

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- 39 President Knapp,
- 40 Okay.

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- 42 Councilmember Floreen,
- 43 She has some other points.



1 President Knapp,

All right. Without objection the amendment is added.

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Councilmember Floreen,

And the other -- someone sent us a very on-point email, I thought, of having to do when exactly this obligation exists within the exchange between buyer and seller, and it seemed to me that a way to -- I thought it was a very well taken point. And in that regard -- because it suggests here that any time a seller communicates with a buyer, they have to provide the information about a potential new tax, even as negotiations are occurring and perhaps the price actually is changing. And I don't think that was anybody's intention. I think it was to make it clear that the flier that you get, the advertisement that you see that has a property tax number on it is corrected to reflect what the tax associated with that price would be. So rather than dealing with a minutia of the conversation that back in negotiations. So what I would propose to address that concern that was well taken, I thought, was to add a few words on line 4 on circle 2. That's the disclosure language that would say any written or electronically transmitted material that a seller produces or distributes in connection with the advertisement of the sale, and that would make it clear that we are talking about the advertisement. I think the sponsor

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21 President Knapp,

Okay. And the committee is?

was okay with that language.

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24 Councilmember Trachtenberg,

I would be okay with that.

2526

27 President Knapp,

28 Okay.

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30 Councilmember Trachtenberg,

31 Roger.

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33 Councilmember Berliner,

34 Yes.

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36 Councilmember Trachtenberg,

37 So that could be a committee recommendation.

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39 President Knapp,

Okay without objection, the committee recommendation is recommended.

40 41

42 Councilmember Floreen,

43 Thank you.



1 President Knapp,

Okay. I will turn to the Bill sponsor, Council Vice president Andrews.

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4 Vice President Andrews. 5 Thank you, Mr. President. I want to thank all my colleagues for their support of this Consumer Protection legislation. Thank the County Executive as well, and thank Mike 6 7 Faden and Amanda Mihill for their good work on it. This Bill will provide crucially 8 important information to perspective homebuyers about what they would face if they buy 9 a particular home in terms of tax liability. Let me give an example of why this Bill is 10 needed very briefly. We have a large tax jump that occurs in most cases now when someone buys a home because of the large increases in assessments that have 11 12 occurred in recent years in combination with the tax credit that the state provides --13 homeowner -- homestead tax credit, which protects current homeowners from big 14 increases in their property tax bill from year-to-year if they stay in the house. But when 15 someone moves to different house that comes off, and you have a tax jump that 16 typically is in the \$1,000 to \$2,000 range. One specific example of a home that was offered in Germantown that was advertised in terms of taxes on the flyer at \$2,046; if 17 the owner stayed in that house next fiscal year, starting July 1st, they would pay \$2,680 18 19 in taxes. If someone bought that house, they would pay approximately \$4,700 in 20 property taxes, a difference of \$2000; A very large difference. And given how many of 21 our constituents are having trouble making their mortgage payments, this is one of the 22 measures that the County can adopt to arm prospective homebuyers with information 23 that they need to make an informed decision about whether they can afford to buy and 24 to stay in a home. It is not a difficult estimate to come up with. It's outlined in the packet 25 how to do it. And I fully agree that we should make it as simple as possible for sellers, 26 their agents, to comply with this important measure. I had a chance to meet with 27 representatives of G. Carr back in September after the public hearing and heard their concerns. The amendment that provides sellers with protection against liability if they 28 29 use a method recommended by the County is a direct result of that meeting and was 30 meted by the committee on to the Bill. And I appreciate that. And I appreciate 31 Councilmember Floreen's suggestions, which I think clarify the measure. So this Bill will 32 -- if it is adopted, will take effect April 1st and will prevent someone from being surprised 33 or shocked by their first property tax Bill. The reality is that most buyers go off what they 34 see on the flyer that advertises the home, and that number just is not often close to 35 what they are actually going to pay. And the an analogy is if you go into a store and you 36 see a product in the store and you go up to the counter, you're not actually interested in 37 what the owner paid for it, you're going to be interested in what is relevant is what you 38 will pay for it; and that's what this Bill accomplishes in this arena. And so I thank their

derive at a particular time for what the property tax bill would be for the new homeowner

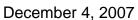
for the first full year that they are in the house. Thank you.

colleagues for their support of this measure and look forward to the Office of Consumer

Friedman and I'm confident that they will do an excellent job in helping sellers to come

up with the appropriate number, which is the best available estimate that is possible to

Protections' very good efforts, I know, to implement it. I've had discussions with Eric





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President Knapp,

Thank you. Councilmember Ervin.

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24 25 Councilmember Ervin,

Thank you very much, Council President Knapp. I signed on as a cosponsor of this Bill immediately after hearing about the Bill and what it was designed to do. However, I think the devil is in the details, and so I've worked with Councilmember Floreen to try to offer some tweaking through her amendment -- our amendment. But I still have some concerns and I want to raise them now. I'm going to vote for this Bill but I still -- I have some nagging concerns and doubts about the implementation of it. And so I want to ask the question of the committee what the conversation in committee was about the County's Finance Department's serious concerns about how this worksheet is going to actually work. So if the Finance Department believes that the proposed worksheet is far too complicated for anyone to actually do the computations what do we really believe is going to happen in the real world when there is buying and selling of property? And also, buyers have to now take the responsibility and research on their own to do this and the buyer's lender will not estimate future property tax, so the fact remains that I think what we are actually asking people to do is -- I think it is a big deal here what we are doing. I think on terms of consumer protection it is all good, but the devil is in the details. And I see that Eric freedman is sitting in the audience and I hope we don't have to add staff to the Office of Consumer Protection to be able to really do this. I would like the Council to take a look at this in a year from now and see what this actually is doing in terms of workload addition to your shop. And so I still have concerns. I think it is basically a good idea. We have to -- I think we should wait and see how this is going to actually end up in the actual implementation.

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President Knapp,

Committee Chair Trachtenberg for a response?

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Councilmember Trachtenberg,

I appreciate Councilmember Ervin's comments. You know, I want to take a step back at this point. You know. I actually sold five houses by myself and that was before I sold -- before I actually sold real estate. And I really did sell successfully for years and took very seriously my responsibility to inform consumers because that's very much, if you're a good agent, that's what you do. And my experience is that agents really do take that seriously. Certainly I did. I believe that this is indeed something given the climate that exists right now around mortgage of stability. It's something that we can do. We can certainly monitor it. The County Executive sent a letter over, I believe, this past week issuing his support for the bill, and he didn't qualify that support. I just want to state that for the record. I think there were concerns raised about the formula and whether or not it would be that easy for all residents to access it and use it correctly. But I'm really of the mindset, and I know my committee was, that it's simple enough to use that most people if not able to use it would find perhaps a way to use it by either calling up the Office of



Consumer Protection or maybe talking to real estate agent -- a professional agent who could assist them. So I feel very comfortable supporting the Bill. I, again, would state for the record we understand the concerns and I think we will be open-minded and monitor how this works, but as a service to the community, I think it really is a step in the right direction.

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President Knapp,

Thank you, Chairman Trachtenberg. I will turn to Councilmember Berliner.

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28 29 Councilmember Berliner,

Thank you, Council President. I just wanted to observe that I, like my colleagues, have gotten my fair share of emails -- you guys do a good job. I look forward to when you do something in support of one of our bills just as much as this, but you are very effective. You are here. And I have to say I feel that this Council has sought to be very responsive to your concerns to the extent to which we haven't been I need to understand it more than I do in this moment, because I believe the sponsor of the Bill, the amendments that have been offered basically say there is no liability here, and this is a very simple threestep process. Now, if it turns out that it's not a simple three-step process, then you have the County that is there to stay we will help you, because that's what Consumer Affairs has now been required to do -- to help you. But my belief is or I think our collective assumption is that after you do this once or twice, this will be pretty simple. And given the concerns that gave rise to this amendment, to this legislation, it seems that that is a fair balancing. So we have tried, you have excellent leadership, you have communicated very well and we have tried to be responsive, and I think the suggestion for having an ongoing monitoring of this, and I am sure we will hear from Eric to the extent to which it turns out that there are more problems than we anticipate, is a good one. So it is not like this is going into effect and if it turns out to be a nightmare we aren't in a position to amend it. But I believe we have -- and the author of the legislation has been very responsive to the concerns expressed by the industry, and I think it's a good piece of legislation.

30 31 32

President Knapp,

33 I just wanted to add my comments. I thank the Chair of the MFP Committee and the 34 committee as a whole for their efforts in this. I thank the sponsor for bringing this to our 35 attention. I was struck; we had a Public Safety Committee meeting about three or four weeks ago in which we were presented by Eric with the foreclosure numbers in 36 37 Montgomery County. Second quarter last year -- yeah, Q2 2006 there were 34 38 foreclosure events. In the second quarter of 2007 there were 605; an increase of 1700% 39 in a year. And when you look at that and we look at what people are going through to try 40 and get into a home, then to have as the example that Mr. Andrews previously cited, we 41 are looking at \$200 additional a month when you are squeezing again in the first place to find out that you got find that extra \$200 a month is just one more piece that's making 42 43 it difficult and pushes people over the edge. And so I think the requirements for 44 disclosure that are outlined here I think are practical and make sense. And I would have

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December 4, 2007

- to agree with Mr. Berliner, in which I think everyone has tried to be as responsive as we
- 2 can. I think people have heard you and I think you've been very effective advocates.
- 3 And so I think we have tried to respond to the concerns that have been raise and to the
- 4 extent that practice bears out a different outcome than I think we are willing to revisit
- 5 this, but practically what we are seeing today it is important that people have this
- 6 information, less the numbers that we've already seen over the course of the last year
- 7 continue to increase. So with that, Mr. Elrich.

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- 9 Councilmember Elrich,
- 10 Yeah I just wanted to say that I tried doing this exercise and it doesn't even take five
- minutes. This is not rocket science and you can, in fact, do it. You don't even need an
- 12 Excel spreadsheet. I mean, this is basically a calculator exercise. And I'm in disbelief at
- the tales I've heard about how unworkable and how unmanageable this is. I just don't
- buy it as difficult and unworkable and unmanageable system. I think this is easy. I think
- people are going to get used to it. And I think it's going to work fine. And I appreciate
- 16 you bringing this Bill forward.

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- 18 President Knapp,
- 19 Great. I see no more comments. We have an amended committee recommendation
- before us. Madam Clerk, if you would call the roll.

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- 22 Council Clerk,
- 23 Ms. Ervin?

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- 25 Councilmember Ervin.
- 26 Yes.

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- 28 Council Clerk,
- 29 Mr. Elrich?

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- 31 Councilmember Elrich,
- 32 Yes.

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- 34 Council Clerk.
- 35 Ms. Floreen.?

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- 37 Councilmember Floreen,
- 38 Yes.

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- 40 Council Clerk,
- 41 Ms. Trachtenberg?

- 43 Councilmember Trachtenberg,
- 44 Yes.



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2	Council Clerk,
3	Mr. Leventhal?
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5	Councilmember Leventhal,
6	Yes.
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8	Council Clerk,
9	Mr. Berliner?
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11	Councilmember Berliner,
12	Yes.
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14	Council Clerk,
15	Mr. Andrews?
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17	Councilmember Andrews,
18	Yes.
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20	Council Clerk,
21	Mr. Knapp?
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23	President Knapp,
24	Yes. It is unanimous amongst those present. We now turn to Bill 43-05, Weapons
25	Restrictions Deer Management.
26	Caunailmannhar Flaraan
27	Councilmember Floreen,
28	This is George's Bill.
29 30	President Knapp,
31	And I turn it over to the Chair of the Public Safety Committee, Council Vice President
32	Mr. Andrews.
33	Wit. / Widiows.
34	Vice President Andrews,
35	Okay. Thank you, Mr. President. Actually, this Bill, truth be told, is a Bill that was
36	introduced by Council President Knapp quite awhile ago, and the committee has been
37	working on it over the past two years to work to make sure we get it right because we
38	are dealing with a very serious problem in Montgomery County of an excessive deer
39	population that is harming public safety, that is contributing to increases in Lyme
40	disease, and increases in crop and vegetation damage. We have a distinguished group
41	of folks before us on the panel who have worked with the committee the past two years
42	to review this. The committee held four work sessions on this measure and after the

public hearing; I wanted to get more public input so we did. We solicited more public

input and we got about 30 more comments on the Bill, some of which really were right



1 on point and which had been incorporated or addressed in some way. But essentially 2 the problem is that the over population of deer is contributing to 2,000 collisions a year 3 that are reported with deer. We know there are more than that. Everyone sees deer 4 alongside of the road that have been hit. We are seeing an increase in Lyme disease in 5 recent years, which we know deer contribute to spreading. And we have had an increase in crop and vegetation damage, and so the agricultural community continues to 6 7 be very concerned about the overpopulation of deer. The recommendations -- the 8 provisions in the Bill come out of the very good work of the deer management work 9 group, which is headed by Rob Gibbs who is sitting here at the table from Park and 10 Planning. And essentially what the Bill would do is to expand the areas in the Country 11 where managed hunts can occur. We know that managed hunts have successfully 12 thinned out the overpopulation of deer in the up-county area and some parks, and we 13 have seen a dramatic reduction in collisions on roads near the parks that have had managed hunts, such as on Great Seneca Highway near Seneca Creek State Park. So 14 15 we know that managed hunts do work. They are one tool to address the overpopulation 16 of deer. But they are effective and we have an overpopulation of deer throughout the County. And so the Bill would expand the areas in the urban district of the County which 17 is most of the County. If you think of the urban district of the County, it is essentially the 18 19 area of the County that is not the agricultural reserve. It is most of the County. And there 20 are many large parcels in the down-county that it would be safe to have a managed 21 hunt on. This Bill includes several provisions to ensure that any managed hunt would be 22 done very safely requiring posting requirements to the public. An amendment will be 23 offered to ensure that the police are notified as well when a managed hunt would occur. And there would be restrictions on how the hunting could be done in terms of requiring 24 25 shooting from an elevated position and downward projectory to accomplish the hunt. So I think it is a Bill that addresses a serious problem both that has contributed to public 26 27 safety hazards -- public health hazards and to a loss of economic value through agriculture and crop damage. And I think it is a Bill that will help manage the deer 28 29 overpopulation in a way that accomplishes the goals of improving public safety, 30 improving public health, and reducing damage to crops. I'd like to have Kathleen 31 Boucher highlight the changes in the Bill that are most impactful, for want of a better 32 word, most different from the current law. The packet is very thorough. If the additional 33 hunting doesn't work probably a couple of whacks with the packet will do the trick.

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Councilmember Trachtenberg,

That might be a matter of opinion.

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Councilmember Andrews,

But there is -- we are -- as I said, we've received a lot of feedback. We did a lot of outreach; got a lot of expert opinion on this. I don't' think that too many members of this Council ran for office on a deer management platform. It is not an issue that particularly arises to the top in a campaign but it is a serious problem in Montgomery County; and we do get asked about it. And Kathleen has done an excellent job in putting together a very thorough packet of information about the statistics, what it would do. And we did



1 get and incorporated the suggestions of Police Chief Tom Major speaking in response to a letter to the Executive Branch that we sent several months ago that he responded 2 3 to in good detail, outlining his support for the measure with a one primary amendment. 4 And his primary amendment was to ensure that there is a -- at least a 50-yard buffer 5 between where someone could shoot a deer with a gun in terms of proximity to a road. The person would have to be 50 yards from the road. The Bill initially had not 6 7 established a buffer. The current law is 100 yards and the Chief felt it was important to 8 have a buffer and the committee agreed with that. So it would have a buffer of 50 yards 9 from the road and one could not shoot into that buffer or back toward the road. So I'll 10 now ask -- actually let me -- I'll ask Kathleen to say a few words about it. And we have 11 folks at the table who are very experienced with this issue that can probably answer any 12 guestions that I can't about this measure. But it has been, I think, well vetted. Kathleen? 13

14 Ms. Boucher.

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15 All righty. I guess I will start by maybe repeating something that you touched on, which 16 is that the thing to keep in mind here is that there of course is state law governing hunting -- governing deer hunting. So there is state law. Montgomery County has 17 chosen to enact some more restrictive measures regarding hunting and the discharge of 18 guns. And it's that part of our law that this Bill is amending. In terms of giving you a 20 quick overview, what I'll do is there are four tables on page 12, 13, 14 and 15 of the memo -- council staff memo and I'll just walk through them very quickly. As 22 Councilmember Andrews mentioned our County has what's called an urban area 23 boundary and that was first enacted in 1981. It's been changed several times, most 24 recently in 1997. If you would like to see that boundary you can actually look at circle 87 25 is a map that shows you the area inside and outside of the urban area boundary. That's 26 actually is a map of the urban area but the map on circle 87 shows you the whole 27 county so you can see what's outside as well. I should mention that Mary Anne Paradise probably circulated to you two documents. One is an amendment that 28 29 Councilmember Andrews, I think you touched on but will speak to it specifically later. 30 The other is a map that relates to the 50-acre parcel exception, which I'll talk about in just a minute. But generally speaking if you're inside the urban area the general rule in 32 our County law is you cannot discharge a gun. Then there are exceptions in our County 33 law where you can discharge a gun inside the urban area. And the reverse is true 34 outside the urban area boundary. If you're outside the urban area boundary the general 35 rule is you can discharge a gun with certain exceptions. There's sort of a reverse 36 general rule. On table 1 of page 12 of the Council staff memo what you see there are 37 three columns. It's the County law, general rules for discharging -- the exceptions to 38 discharging a gun in the urban area under county law the Bill and committee amendments. And we've bolded the language that is changing or important here. So 39 40 what Bill 43-05 did was to add two new exceptions to the general rule that applies inside the urban area. The general being you can't discharge a gun. The Bill as it was introduced added two exceptions. Those two exceptions were for the purpose of deer 42 43 hunting on private property that's at least 50 acres in size, or on property owned by the 44 Maryland National Capital Park and Planning Commission as a part of a deer



1 management program conducted or sanctioned by the Park and Planning Commission. 2 So those are the two new exceptions added by the Bill. The committee amendments 3 you can see in the third column; basically kept those two amendments -- the two 4 additional exceptions and added some language to address some concerns about 5 public safety. So you'll see that under the committee amendments if you're inside the urban area it does -- if this Bill is enacted, County law would authorize the discharge of 6 7 a gun for the purpose of deer hunting on private property that's at least 450 acres in 8 sizes if the person discharges the gun from elevated position, does not load the gun 9 until located in the elevated position, and unloads the gun before descending from that 10 elevated position, if the projectile has a downward trajectory and if the property owner complies with public notice requirements that the County Executive sets out in 11 12 regulations. And then secondly, it kept -- essentially didn't touch that second 13 amendment. The committee accepted the original exception to allow park and -- the Parks Department to conduct managed hunts on parks property. So that's the first major 14 piece of the Bill. And then looking at table 2, which is just summarizing the law and the 15 16 Bill and committee amendments as it relates to outside the urban area. What you see there is under the county law column the circumstances under which a person can now 17 discharge a gun outside the urban area. And then Bill 43 amended current law -- the 18 19 part of current law that authorizes someone who is outside the urban area to discharge 20 a gun if they have a deer damage control permit issued by the State Department of 21 Natural Resources and have been approved by the chief of police. The Bill deletes the 22 requirement that the person obtain approval from the chief of police. And apparently 23 that's actually consistent with current practice; that if you're outside the urban area and you obtain a permit from the Department of Natural Resources to discharge a gun for 24 25 the purpose of deer hunting, you don't need police department approval. So that's consistent with current practice. Table 3 -- I'm on page 14; this relates to the 26 27 interrelationship between state law and county law. One of the -- what -- state law has some distance requirements. Stay law prohibits the discharge of a gun within 150 yards 28 29 of a building designed for human occupancy, and also prohibits the discharge of a gun 30 on, from or across a public road. The county law is currently more restrictive. The 31 county law prohibits the discharge of a gun within 200 yards of a building designed for 32 human occupancy and within 100 yards of a public road. As the Bill was introduced it 33 would have made county law completely consistent with state law so that it would 34 reduce the 200 yards to 150 yards with regard to buildings designed for human 35 occupancy, and then would have deleted the 100-yard requirement with regard to public 36 roads. The committee -- the result of the committee amendments, you can see there in 37 the third column the committee did stick with the part of the bill that is doing to be 38 consistent with state law, buildings that are designed for human occupancy that the 39 safety zone is now 150 yards under the committee amendments, and that's consistent 40 with state law. With regard to public roads though this is where the Chief Major 41 amendment recommendation comes into play because Chief Major did recommend that 42 the County retain a 50-yard buffer zone along public roads. And so the committee 43 amendments prohibit the discharge of a gun onto, across or within 50 yards of a road or 44 into that area -- located into or across the area located within 50 yards of a public road.



1 So that's the third table there. The fourth table on page 15 relates to bows. The Bill does 2 deal with the restrictions on hunting with bows as well and, again, that part of the Bill 3 relates to what I'm calling distance requirements for shorthand. But again, under state 4 law, there is 150-yard safety zone, 150 yards of a building designed for human 5 occupancy, and you can't shoot a bow on, from or across a public road. And so the Bill makes county law entirely consistent with state law in that regard. And there's no 50-6 yard buffer zone for public roads. I think there was a consensus that the same concerns 7 8 did not exist with regard to bows that would call for that 50-yard buffer zone. Those are 9 the, I think, the major aspects of the Bill.

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Councilmember Andrews,

I think that's right. Thank you for that good summary. So the addition of allowing managed deer hunts in 50-acre parcels in the urban district is probably the most substantial change. And then you have the changes in the buffer zone that's related to proximity to a road. I have an amendment that would address the need to track managed hunts that occur on these properties. I will pass it down here. This would require this amendment that if a property owner decides to go ahead and have a managed deer hunt during deer season, they would have to notify the police department that they were going to do so and provide information about the hunt. In addition to the posting requirements to the public that are specified in the legislation that would become more detailed with the regulations that would be adopted to specify the signage and so on. So I think this amendment is important so that there is that notification to the police department that a hunt is about to occur. The police department will know about it and will be able to track it and see what the impact of this legislation is. At this point I think I will open it up to questions. The recommendation of the committee is unanimous that this is a needed bill. And I very much appreciate all the good work done by the folks at the table. Why don't you introduce yourselves for people watching and the people up here because the public safety committee has had more contact with some of you than the rest of the Council.

29 30

31 Mr. Johnson,

32 Commander Donald Johnson, Montgomery County Police.

33 34

- Councilmember Andrews,
- 35 The commander was promoted during the time of the Bill.

36

37 Mr. Johnson.

38 I think I was promoted twice actually.

39

- 40 Councilmember Andrews,
- Twice. There you go. Sorry about that. I was going by the first iteration.

- 43 Mr. Hamilton.
- 44 Bill Hamilton, Montgomery County Department of Parks.



12 Mr. Gibbs,3 Rob Gibbs

Rob Gibbs with Montgomery County Department of Parks, and also Chair of the Montgomery County Deer Management Work Group.

4 5 6

Mr. Piatesk,

7 Jim Piatesk, Chair of the Firearm Safety Committee.

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Councilmember Andrews,

10 Thank you all.

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President Knapp,

We have questions from Mr. Leventhal.

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Councilmember Leventhal,

First of all, let me say as everybody knows here, I think, so on November 1st, I was driving on the beltway a deer hit my automobile and it was a very serious accident both from the standpoint of myself, my face, and the automobile I was driving in. And I just want to disclose, I mean, I knew that this issue of managed hunts was before the Public Safety Committee and was going to come before the Council, and I have been thinking long and hard about, you know, whether I ought to vote today on this Bill because I don't -- I just want to be very clear that I take my responsibility as an elected official very seriously and I don't believe that my judgment is clouded by the misfortune that occurred to me here. We have had a unanimous representation, unanimous recommendation from the Public Safety Committee. We had the -- this Bill is based upon the recommendations of a community working group. And so I honestly believe that I would vote in favor of this Bill even had not this great misfortune occurred to me. And I appreciated the briefing that Mark Hanson provided to Councilmembers a few weeks ago. I don't believe that although I was directly affected by deer overpopulation that I was affected in a way that is any different than any member of the general public. We have thousands of these vehicle collisions as documented by the county police department with deer in the county every year. So it's unusual that mine occurred on the beltway, but it certainly does point out and it is a legitimate point to make in this discussion that overpopulation is very severe. We certainly don't want deer on the beltway. It's okay to laugh about my circumstances as a natural human response to something that is so out of the ordinary and so unexpected to find humor in it, and I have had people joke with me about now am I going to come forward with some new policy pronouncement animal management. It is not an issue that I had devoted a lot of thought to; I'm not a member of the Public Safety Committee. But I will vote in favor of this Bill. I have considered whether or not I should. I've have come to the conclusion that my judgment is not clouded by the misfortune that I experienced and that this does represent sound policy. Having said that, are we ever going to find out the County Executive's position on this Bill? I do note that the memo states that the Public Safety



1 Committee requested his views and did not receive them. We are glad to hear from 2 Chief Major, but do we know the County Executive's views on this?

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6 7 Ms. Boucher,

We do know that Chief Major responded on behalf of the County Executive or at least responded when a letter was sent to the County Executive. Council staff has had some conversations with the County Executive staff asking for his position during the last several weeks, and we have not received a formal response.

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Councilmember Leventhal,

Well, presumably if he doesn't veto the Bill then we will know that he doesn't object. In any event, the timing of this Bill obviously has nothing to do with my own misfortune. I considered carefully and thoughtfully whether or not I ought to vote on this matter; I have come to the conclusion I think it is all right to do so and that I would have voted for this Bill regardless of my own misfortune.

15 16 17

18 19 President Knapp,

Thank you, Mr. Leventhal. The good thing is this will be Kathleen's last piece of legislation here, so she can walk it across the street if it's approved today, and then she can actually find out the Executive's perspective and then implement it as noted.

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Councilmember Andrews, You have the amendment.

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President Knapp.

Right. I had a question on that. I just want to thank Chairman Andrews for his diligence on this Bill. This was introduced back in 2005 and so we have certainly got a lot of information. And all of those folks who are before us have been with us through all of that conversation, and so I very much appreciate that. This really -- I forgot -- at one of our public hearings earlier someone referenced the numbers of work groups and commissions and task forces that we have, and two of them are here in front of us -- the Deer Management Work Group and the Firearm Safety Committee that meet and address issues of importance to the County and bring recommendations forward, and that's where much of this actually came from. And so I thank both of you for your commitment to participation on those committees because I know that they are far from the public eye and you participate because you feel strongly about the issues that are in front of you. And so I appreciate your efforts in that respect and everyone that has worked on this. Really the goals of this when I introduced it were to get us greater consistency with state law, address the issues of public safety, as the chair outlined, and to focus on Ag preservation. This also came up at a time when our farmers were dealing with a significant amount of crop damage as a result of deer herds, and it continues to occur. And so this was one other way to begin to address that. So it addressed all three of those issues. And I thank Kathleen for her efforts. Clearly it is a weighty packet, and it's a weighty packet because she pursued all of the various issues

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December 4, 2007

that were out there and made sure we were fully informed before we proceeded. And so I thank you for that as well. The only question I had as it relates to the amendment, I just wanted to touch base with Commander Johnson just to see from the police perspective; one of the things that I asked at the end of the committee meeting was does what we've approved actually make it better and make it more straightforward to be enforced as the law. And I just want to make sure that that same criteria applies with this. It would appear to be okay because it is just notification and it's basically just tracking, but I just want to get the police perspective.

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Commander Johnson,

I believe it will. Because these are the type of laws that you don't enforce on a regular basis, and depending on what district of your assignment, it could change through the course of years, or whatever. So having the two sets of laws to go by just added to the confusion for something that you don't normally practice. So limiting you now to one set of rules with one addition I believe will make it much simpler for officers to respond to. And it will be spelled out for officers so that the officers that do encounter these circumstances, such as the 50-yard -- acre parcels -- the ones that will encounter those things will encounter them on a regular basis. In other words, an officer that works downtown Silver Spring, for instance, is not going to handle this type of call on a regular basis. Whereas an officer that works maybe in the outskirts of Wheaton or Olney district or maybe out in Rockville or Potomac would handle it on a regular basis and would be familiar with it. So it will make it easier.

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President Knapp,

Then I would recommend in consultation with Mr. Elrich that if he is okay that we just make a committee recommendation.

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- 28 Unidentified,
- 29 Good.

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- 31 President Knapp,
- 32 Okay.

- 34 Ms. Boucher.
- I should also mention that there is one other amendment that's mentioned in the Council staff packet, and it relates to an issue that I understood better after the last committee
- work session. One aspect of the Bill relating to the 50-acre exception is that the
- committee recommended that up to five property owners be allowed to aggregate their
- 39 property to meet the 50-acre threshold. But to allow enforcement I think in response to
- 40 Commander Johnson's comments, the committee's amendments include a requirement
- 41 that anybody who is hunting on aggregated property -- that threshold has to carry
- written permission that includes a copy of the record plat for each underlying parcel that
- 43 makes up that aggregated property. And after the committee's last work session I did
- learn that not every parcel of property in the County has a plat; that that would be



- available for a property that as been subdivided. However, the State Department of
- 2 Assessment and Taxation does keep a record for the purposes of assessment, every
- 3 parcel in the state of Maryland, and that's easily accessible online. You can print out --
- 4 in fact I put samples in the packet beginning on circle 160 of the record you can get by
- 5 just printing out from SDAT you can get the size of the parcel and a very, very simplistic
- 6 map, but a map. And so the Council staff recommended amendment would be that
- 7 where we reference record plat that we say record plat or tax assessment record,
- 8 because one or the other can be had for every parcel.

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- 10 President Knapp,
- 11 Okay.

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- 13 Councilmember Andrews,
- 14 That works.

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- 16 President Knapp,
- 17 Sounds good then. Without objection that amendment is accepted as well. And I don't
- see any other --.

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- 20 Councilmember Andrews,
- 21 I would like to thank Council President Knapp for introducing this measure. I think it will
- help us successfully manage the overpopulation of deer and improve public safety,
- 23 public health, and reduce crop damage.

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- 25 President Knapp,
- Thank you very much. We have the amended committee recommendation before us.
- 27 Madam clerk, if you would call the roll.

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- 29 Council Clerk.
- 30 Mr. Elrich?

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- 32 Councilmember Elrich,
- 33 Yes.

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- 35 Council Clerk.
- 36 Ms. Floreen.?

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- 38 Councilmember Floreen,
- 39 Yes.

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- 41 Council Clerk,
- 42 Ms. Trachtenberg?

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44 Councilmember Trachtenberg,



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Councilmember Trachtenberg,

1 Yes. 2 3 Council Clerk, 4 Mr. Leventhal? 5 6 Councilmember Leventhal, 7 Yes. 8 9 Council Clerk, 10 Mr. Berliner? 11 12 Councilmember Berliner, 13 Yes. 14 Council Clerk, 15 16 Mr. Andrews? 17 18 Councilmember Andrews, 19 Yes. 20 21 Council Clerk, 22 Mr. Knapp? 23 24 President Knapp, 25 Yes. And I would also just note that Councilmember Ervin had another event that she had to attend on behalf of Council business, and had she been here she would have 26 27 been voting in the affirmative with the amendments and the underlying Bill. So the Bill passes 7-0. And we now move on to District Council session. Thank you all very much. 28 29 Thank you, Kathleen. Good job. 30 31 Councilmember Berliner. 32 Is that her last official act? 33 34 President Knapp, 35 That is her last official act. We are still in session, everybody. District Council Session, we now have before us introduction of Zoning Text Amendment 07-16, Rural Cluster 36 37 Outdoor Storage sponsored by the Council President. We have before us action for 38 resolution to establish a public hearing for January 15th at 1:30 and we have a majority 39 of the Council present. I need a motion. 40 41 Councilmember Elrich, 42 So moved. 43

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1 Second.

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- 3 President Knapp,
- 4 Moved by Councilmember Elrich; seconded by Councilmember Trachtenberg; all in
- 5 favor? That is unanimous. We now have before us action resolution to extend time for
- 6 Council action until January 29, 2008, on local map amendments G-862 and G-863.
- 7 8
- Councilmember Berliner,
- 9 So moved.

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- 11 President Knapp,
- Moved by Councilmember Berliner; seconded by Councilmember Elrich; all in favor?
- 13 That is unanimous now. Okay. Motion carries. And now we have action on Montgomery
- 14 County Planning Board Regulation 07-2, Manual of Development and Review
- 15 Procedures. I turn it to Councilmember Elrich, the Acting PHED Committee Chair.

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- Councilmember Elrich,
- 18 And the only one here.

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- 20 President Knapp,
- 21 The only one from the PHED Committee in the room.

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- 23 Councilmember Elrich,
- So I will do a brief introduction. Long, long ago in a place far, far away things happened
- that raised concerns. As a result of the things that happened that raised concerns some
- people thought that the creation of some kind of manual which clarified policies and procedures and dealt with some of the things that had happened in this unfortunate
- place would be a good idea. It fell to the job of Park and Planning of Montgomery
- 29 County to create such a development manual. And they've created a development
- manual and it's before the Council now; we can approve it or disapprove it. I hope we
- don't amend it. There was a recommendation of the committee that we approve it with
- Ms. Praisner being absent. And so I would ask my colleagues' acceptance of that.

33

- 34 President Knapp,
- 35 Any comments?

- 37 Mr. Zyontz,
- Just to say that we worked closely with Planning Board staff to get some amendments
- before it went to committee that made it consistent with law and our language and text.
- 40 It really is a very good piece of work that provides citizens and developers and staff
- 41 expectations for how the process should work. It has consequences for actions within
- 42 the application process that are important, and it also implements the most recently
- adopted zoning text amendment that the council made 07-05 that gave the Planning



Director some discretion in some limited areas so that it didn't have to go through the full process for really minor types of amendments.

President Knapp,

Okay. Are there any questions? We have a PHED Committee recommendation before use. All in favor? That is unanimous. Thank you very much. And Council is now adjourned. We have state legislative program in the sixth floor conference room beginning at 3:30.